

# Exhibit 1

**AFFIDAVIT OF ARTHUR SNOW**

THE STATE OF TEXAS

§

COUNTY OF HAYS

§

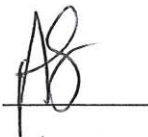
§

BEFORE ME, the undersigned authority, personally appeared Arthur Snow, who, being duly sworn upon his oath according to law, said as follows:

1. My name is Arthur J. Snow, Jr. My date of birth is [REDACTED]. My address is [REDACTED]. I am over the age of 21 and competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct.
2. I have been in and out of jails and prisons for much of my life. From about December 2010 until about September 2011, I was an inmate at the Stevenson Unit in Cuero, Texas. At the time, I was serving time for forgery. My TDCJ number is #01534438.
3. Prison can be a dangerous, chaotic, and violent place. It is common for inmates to join or form allegiances with gangs for protection, or to feel like they belong to part of a group. Often, prison gangs form along racial divides.
4. I was brought up to be prejudiced against black people. As a kid, I remember my grandparents using the word "nigger" to describe black people. They used the term so casually. As a result of my upbringing, I adopted the same values and beliefs I was taught. I didn't know any other way to be, and so when I went to prison, I joined the Aryan Brotherhood. The Aryan Brotherhood is a whites-only prison gang.
5. The Aryan Brotherhood has a hierarchical structure. Eventually, I became a respected member of the gang, and was seen by other inmates as sort-of a leader. As a result, new white inmates would sometimes approach me for services. For example, inmates could pay the Aryan Brotherhood to offer them protection from people or groups within the prison.
6. In about 2010, a white man named Jimmy Fennell ("Jimmy") approached me at the Stevenson Unit wanting the protection of the Aryan Brotherhood. Jimmy said he needed protection from the blacks and Mexicans at the prison. At the time, I didn't know anything about Jimmy. All I knew was that I had seen Jimmy around the prison and observed that he seemed out of his element. So, I cut a deal with Jimmy that he would pay the Aryan Brotherhood out of his commissary, and in exchange we would keep the blacks and Mexicans off of him and protect him from violence.

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7. Jimmy and I were never really friends, but we occasionally made conversation. One conversation stands out very clearly in my mind. Jimmy and I were in the rec yard at the Stevenson Unit walking around the track and talking. He was talking about his ex-fiancé with a lot of hatred and resentment. Jimmy said his fiancé had been sleeping around with a black man behind his back. By the way Jimmy spoke about this experience, I could tell that it deeply angered him. Toward the end of the conversation Jimmy said confidently, "I had to kill my nigger-loving fiancé." My impression was that Jimmy felt safe, even proud, sharing this information with me because I was a member of the Aryan Brotherhood. I think Jimmy assumed that his confession would impress me and earn him credibility with the Aryan Brotherhood.
8. As I recall, people didn't really bother Jimmy anymore once they knew he was under our protection. However, one day a new inmate came onto the unit who said he knew Jimmy from time he spent in Williamson County. I do not recall this man's name, but the new inmate said that Jimmy was a former cop who had been convicted of raping a woman in his custody. I wanted to verify this, so I asked a guard at the prison to look Jimmy up and tell me who he was and what he was in for. After looking Jimmy up, the guard confirmed Jimmy's history.
9. After the news spread around the prison that Jimmy was a cop, and that he was a rapist, the Aryan Brotherhood couldn't protect Jimmy anymore. Then, Jimmy accused the Aryan Brotherhood of extorting him. Because the guards saw me as one of the leaders of the gang, Jimmy's accusations landed on me. As a result, I was ultimately moved to the Connally Unit where they send a lot of gang members.
10. A few years ago, I was in the Hays County Jail. While there I saw Jimmy's picture in the newspaper. His picture was juxtaposed next to a picture of a black man named Rodney Reed. This was the first time I had heard about Rodney Reed or his case. The article said that Rodney Reed had been convicted of murdering Jimmy Fennell's fiancé. That's when everything came together for me. I recalled my conversation in the rec yard with Jimmy. I realized that Rodney Reed was sitting in prison for a murder that Jimmy Fennell had confessed to me that he had committed. I had planned to come forward back then, but never did. At the time, I still had a heavy gang-mentality and decided that it was none of my business. On top of it all, I worried that even though Jimmy was a cop, I would be labeled a snitch.
11. In the years since I saw that newspaper article, though I was not a young man then, I finally started to grow up. I had grandkids. I started to look at the world differently. I let go of some of my prejudices. I looked at the situation differently and tried to put myself in Rodney Reed's shoes. When I did, it weighed on my conscience. Recently, after having again landed myself in the Hays County Jail, I saw another newspaper article about Jimmy Fennell and Rodney Reed. I knew I couldn't ignore this memory anymore. I decided that I had to come forward and tell someone what I knew.



I have read and reviewed this 3-page affidavit. After reading each page, I initialed the bottom of each page.

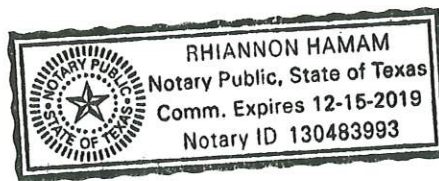
I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct to the best of my knowledge and that this affidavit was executed on the 29 day of October, 2019 in San Marcos, Texas.

  
Arthur J. Snow Jr.

Sworn to and subscribed before me on the 29<sup>TH</sup> day of October, 2019, by Arthur Snow.



Notary Public, State of Texas







# Exhibit 2

**AFFIDAVIT OF** [REDACTED]

THE STATE OF TEXAS

WILLIAMSON COUNTY

BEFORE ME, the undersigned authority, personally appeared [REDACTED] who, being duly sworn upon his oath according to law, said as follows:

1. I, [REDACTED], am over the age of twenty-one and am competent to make this Affidavit. I have never been convicted of a felony or a crime involving moral turpitude. I have personal knowledge of the facts set forth in this Affidavit, and those facts are true and correct.

2. For the last 34 years, I have been a salesperson for [REDACTED], a fraternal life insurance company based in [REDACTED]. In addition to selling and providing insurance, we provide opportunities for our policy holders, whom we call members, to engage in cultural, social, educational, and civic activities. For example, we have lodge halls at locations all over the State of Texas, where we encourage members to come for social events, including dances and other gatherings.

3. In 1995, I was officer of the [REDACTED], located (at the time) at [REDACTED] [REDACTED] where we frequently held functions. At that time I went by the name [REDACTED]. As part of my responsibilities, I would open the hall, make sure we had enough workers for whatever event we had planned, set up the ticket sales, and perform other tasks. We would hire outside security officers to ensure safety at the event, and I would interact with the security, if there were ever problems or just to visit.

4. A frequent member of our security team was a man named Jim Fennell ("Jim"), who would come to the lodge hall and work security. I understood that he was a law enforcement officer, or involved in law enforcement in some way, and did this on the side—a practice that

was not uncommon for law enforcement officers who wanted to make a little extra money. I knew Jim because of this; and I can easily recognize him.

5. On one occasion, Jim introduced me to his girlfriend at the time, a young lady named Stacey Stites ("Stacey"). After that introduction, I remember seeing her at the lodge hall accompanying Jim on a few other occasions that he worked.

6. In November 1995, I struck up a conversation with Stacey at the lodge hall and asked her if she would be interested in applying for a life insurance policy. She agreed to fill out an application, and being in the insurance business, I always had an application nearby. When she was filling out the application she made the remark, "I really don't know why I need life insurance since I am so young."

7. In response to that comment, Jim, in my presence, told her "If I ever catch you messing around on me, I will kill you and no one will ever know it was me that killed you." I remember it well because of the tone of voice that he used. It was not presented as a joke. That concerned me and still concerns me today, because I took it as a threat on her life. I found it harsh and abrasive, and I have never forgotten it. Although I do not recall Jim applying for insurance or filling out an application, records with the insurance company indicate that he did as well. I have attached as **Exhibit 1** of this Affidavit a copy of the insurance company's receipt of applications for Jimmy Lewis Fennell, Jr., and Stacey Lee Stites, dated November 29, 1995.

8. Months later, at a function Jim was not scheduled for security duty, I remember he came to the lodge hall shortly before closing time. I remember looking at my watch. He entered through the kitchen door. He was familiar with all entrances and exits since he was frequently one of our security. He came around to the front of the bar. I observed him and noticed he was red-faced and his face seemed to be puffy, as though he had been drinking. I

remember thinking that he looked upset or like he had high blood pressure. It just did not seem like the Jim Fennell I was used to seeing. I did not speak to him, as I had duties and proceeded to do them since it was almost closing time. I did not have a reason to talk to him. A few days later, I learned that Stacey had been murdered.

9. Although I do not know Rodney Reed ("Mr. Reed"), sometime in the early 2000s I tried to contact an attorney of his to let his legal team know about Jim's threat to Stacey. I got the name Bryce Benjet from a newspaper article, and I called a phone number in Austin. I was not sure that I was calling the right place, but there was a recording asking that messages be left, and I left my name and a brief message relating to my call. I have since learned that Mr. Benjet had moved to New York. I did not try to reach him again. I did not come forward earlier because I thought Mr. Reed was going to be exonerated.

10. In 2015, after all of the coverage about Mr. Reed's case and with the possibility of his execution, I wrote and mailed two letters describing these events, one to Texas Attorney General Ken Paxton, and the other to Governor Greg Abbott. I wrote the letters because I thought at the time, and continue to believe, it is important that I share my experience witnessing Jim's threat to kill Stacey if he found out she was cheating on him. I have attached copies of those letters to this Affidavit, as **Exhibits 2 and 3**. I never heard back from either the Attorney General or the Governor based on these letters.

11. In July of this year, I learned from television media that Mr. Reed was scheduled for execution. I again wrote a letter, this time to Judge Shaver, the judge who presided over Mr. Reed's last hearing, to share my experience. I sent copies of that letter to Governor Abbott, Bastrop County District Attorney Bryan Goertz, and to Texas Attorney General Ken Paxton. I have attached a copy of that letter as **Exhibit 4** to this Affidavit. Despite the passage of time



between my 2015 and 2019 letters, my description of the interaction I had with Stacey in November 1995, and my recollection of the words Jim used to threaten to kill her, are the same.

12. I am coming forward now, again, because it is important that law enforcement and people in positions of authority in this State know and consider Jim's threat to kill Stacey, which I understand occurred shortly before her death.

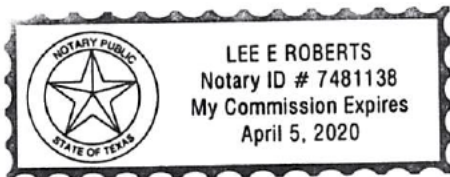
13. I fear that Texas may soon execute someone who I do not believe committed this crime.

Further Affiant sayeth not.

[REDACTED]

[REDACTED]

Subscribed and sworn to before me this 5th day of September, 2019, to certify which witness my hand and official seal.



[Handwritten Signature]

Notary Public in and for the State of Texas

[REDACTED]  
[REDACTED]  
November 29, 1995

[REDACTED]  
Dear [REDACTED],

This acknowledges the receipt of non-medical and / or medical applications and benefits as applied for:

Name(s)	Class	Amount	DI	PW	PY	OR
JIMMY LEWIS FENNELI, JR.						
STACEY LEE SITTES						

for membership to [REDACTED] [REDACTED]

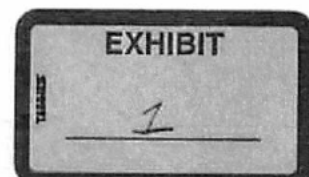
Please check the information listed above carefully. If any change(s) is required, call us immediately so that we may incorporate the change prior to issuing the certificate.

Thank you,

Cynthia  
Insurance Department

[REDACTED]  
Please call me as soon as possible regarding these applications.

Cynthia  
[REDACTED]



February 16, 2015

Honorable Greg Abbott  
Governor of Texas  
State Capital  
Austin, Texas 78701

Re: Rodney Reed

Dear Governor Abbott:

As I watch the news from day to day and week to week and see the continued execution of Rodney Reed, it saddens me to know that the young man doesn't seem to be getting the opportunity to be found not guilty. I can't imagine any judge or attorney not allowing a piece of evidence to be submitted to save a life.

I am in the life insurance business and knew both Jim Fennell and Stacy Stites. Stacy was in my presence filling out an application for insurance as Jim Fennell stood near. Stacy made the comment that, "I am so young I don't know why I would need insurance." Jim Fennell then made the statement that if he ever found out she was cheating on him, he would kill her and no one would ever know he did it.

I have read and heard others make similar reports, but no one seems to take these treats of Jim's serious. What in the world or why wouldn't a judge take every little bitty piece of evidence into consideration before taking the life of anyone not much less an innocent Rodney Reed.

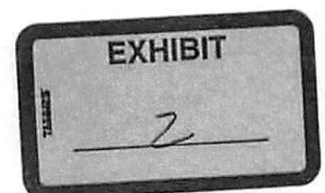
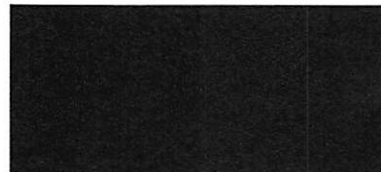
With all of the supporters and demonstrations and asking for help; I too decided to write my Governor and request some help for this innocent Rodney Reed. Please please help this innocent person and allow his lawyers the opportunity to prove his innocence.

Recently, a man went through this same type of conviction in Williamson County and after serving 25 years was finally found not guilty and was released. What a terrible tragic thing to convict an individual by not allowing all evidence to be submitted for evidence.

Thank you for your utmost consideration!

Please do not allow our state to become known for killing innocent people.  
In God we Trust!!!!!!

With a deep plea for help I am,



February 19, 2015

Honorable Ken Paxton  
Attorney General of Texas  
State Capital  
Austin, Texas 78701

Re: Rodney Reed currently on death roll.

Dear Mr. Paxton:

As I watch the news from day to day and week to week and see the continued execution of Rodney Reed, it saddens me to know that the young man doesn't seem to be getting the opportunity to be found not guilty. I can't imagine any judge or attorney not allowing a piece of evidence to be submitted to save a life.

I am in the life insurance business and knew both Jim Fennell and Stacy Stites. Stacy was in my presence filling out an application for insurance as Jim Fennell stood near. Stacy made the comment that, "I am so young I don't know why I would need insurance." Jim Fennell then made the statement that if he ever found out she was cheating on him, he would kill her and no one would ever know he did it.

I have read and heard others make similar reports, but no one seems to take these treats of Jim's serious. What in the world or why wouldn't a judge take every little bitty piece of evidence into consideration before taking the life of anyone not much less an innocent Rodney Reed.

With all of the supporters and demonstrations and asking for help; I too decided to write you and the Governor and request some help for this innocent Rodney Reed. Please please help this innocent person and allow his lawyers the opportunity to prove his innocence.

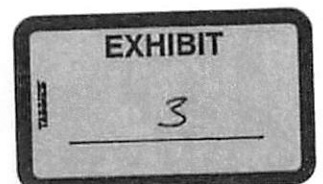
Recently, a man went through this same type of conviction in Williamson County and after serving 25 years was finally found not guilty and was released. What a terrible tragic thing to convict an individual by not allowing all evidence to be submitted for evidence.

Thank you for your utmost consideration!

Please do not allow our state to become known for killing innocent people.

In God we Trust!!!!!!

With a deep plea for help I am,





July 25, 2019

Honorable Judge Doug Shaver  
Bastrop County Court House  
804 Pecan Street  
Bastrop, Texas 78602

Re: Rodney Reed

Your Honor:

I have made several attempts to contact or notify various parties to express concern in the Rodney Reed case. Each time this has come up it concerns me that all possible evidence would not be allowed to save a human life. How could you possibly live knowing that you didn't allow this to happen?

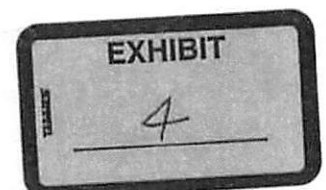
I do not know Rodney Reed, but I did know Stacy and I also knew Jim Fennel. I am in the insurance business and sold Stacy a life insurance policy. When she was filling out the application she made this remark, "I really don't know why I need life insurance since I am so young". Jim Fennel (in my presence) told her, "If I ever catch you messing around on me, I will kill you and no one will ever know it was me that killed you".

That concerned me that day and it still concerns me today. That is why I feel I have to let this be known. That's a threat!

You obviously have made up your mind that Rodney Reed is guilty, but I am asking you to reconsider and hear all evidence even the evidence that was previously presented and later admitted being wrong. What kind of justice is that?

For God sake give the man a fair trial. Hear all the facts regarding the Rodney Reed case. Could you live with yourself if he was falsely put to death. I am not black and consider myself to be an honorable respectable individual in and around my community. But could not live with myself if I didn't share this information with you. I believe you are a fair individual and will do the right thing. Thank you for your consideration.

cc: Honorable Greg Abbott  
cc: Honorable Bryan Goetz  
cc: Honorable Ken Paxton



# Exhibit 3

**AFFIDAVIT OF CHARLES WAYNE FLETCHER**

THE STATE OF TEXAS           §  
  §  
COUNTY OF GUADALUPE       §

BEFORE ME, the undersigned authority, personally appeared Charles Wayne Fletcher, who, being duly sworn upon his oath according to law, said as follows:

1.       My name is Charles Wayne Fletcher. I am over twenty-one years of age and am fully competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct.

2.       I worked at the Bastrop County Sheriff's Office from 1992-1996, and I went by the name Wayne Fletcher. I handled several duties while at the Sheriff's Office. I was a jailer and also handled inmate transport. I was also a reserve patrolman with my peace officers' license. During some of my time with the agency, I worked directly with Jimmy Fennell ("Jimmy"). Jimmy and I were colleagues and friends and socialized together off the job sometimes.

3.       I also knew Stacey Stites. I was friends with both she and Jimmy.

4.       When they started dating in 1995, I spent some time with them. He and Stacey and my wife Etta (at the time), and I would go out to eat and bowl together occasionally. I believe that Stacey and Jimmy considered me to be a friend. They called me Fletch or Fletcher, for short.

5.       After Jimmy and Stacey moved to Giddings, I saw them less. I noticed, however, that their relationship seemed to deteriorate. I remember visiting them once in March of 1996 in an apartment at Rolling Oaks Apartments on the west side of Giddings. I am almost certain it was March because the weather was nice. Jimmy and Stacey were short with each other and raised their voices in communicating when they spoke. Generally, I got the impression that they were not in a good place with their relationship because of how they talked to each other.

6. During that visit, Stacey said she was going to the pool at the complex. After Stacey left, I remember clearly that Jimmy said that he believed Stacey was "fucking a nigger." We were outside of the apartment building by the barbeque pit on the ground level preparing barbeque when he said it. He did not elaborate. He did not say specifically how he knew that or what made him believe it, but I remember he said those words because I was disturbed by them. I did not ask him about it. I did not know how to respond and did not want to pry into it. Although I have not shared this with many people, I have never forgotten his words.

7. I attended Stacey's funeral service. Before the funeral service, I remember Jimmy looked cold, empty, and emotionless to me. He could be quiet and stern anyway, but his behavior was so odd I could tell that something was definitely off. He behaved the same way at the funeral service. I believe others noticed it too, whether they said anything or not.

8. Jimmy and I drove together to Corpus Christi for the burial services, along with Jimmy's parents. During the drive and at the burial services, Jimmy's odd, emotionless behavior continued. I think I even asked his mother whether he was on medication. I was so disturbed by his behavior that it caused me to question whether he was involved in Stacey's death. I also chose to have no further interaction or communication with him.

9. In 1996, I left the Sheriff's Office. I changed careers and later left the area. I have never returned to law enforcement. I have not been outspoken about my experiences with Jimmy and Stacey because I still have family in the Bastrop area, and I do not want any negative action to come to them if it is perceived that I am going against local law enforcement.

10. I met my current wife, Dana, in 2009. Sometime after, I opened up to her about my experiences with Jimmy and Stacey, about the time when they lived in Bastrop, about their



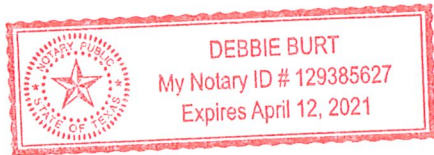
relationship deteriorating when they lived in Giddings, about Jimmy saying he believed Stacey was 'fucking a nigger,' and about his behavior at the funeral and burial services.


11. She has encouraged me to share my experiences even though there could be some negative reaction.

Further Affiant sayeth not.

  
Charles Wayne Fletcher

Subscribed and sworn to before me this 11th day of October, 2019, to certify which witness my hand and official seal.



  
Notary Public in and for the State of Texas

# Exhibit 4

**AFFIDAVIT OF JIM CLAMPIT**

THE STATE OF TEXAS

§


§

COUNTY OF LEE

§

BEFORE ME, the undersigned authority, personally appeared Jim Clampit, who, being duly sworn upon his oath according to law, said as follows:

1. My name is Jim Clampit. I was born in Lufkin, Texas. My date of birth is 7/15/1940. I reside at 1321 Nails Creek Rd., Giddings, Texas, 78942. I am over the age of 21 and competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct.
2. In about 1968, I graduated from the Texas A&M Game Warden Academy. After graduation, I accepted a position as the Lee County Game Warden. The position was based in Giddings, Texas. I moved to Giddings for this job. I met my wife in Giddings and have lived here ever since. I served as the Game Warden for about 15 years, until about 1984. At this time, the region was experiencing an oil boom, and so I became an oil field worker. I worked in the oil fields for about 3 years.
3. In 1988, I accepted a position as a deputy at the Lee County Sheriff's Office. As a deputy in a small Sheriff's office, I had a lot of responsibilities. For example, I worked patrol, traffic, and investigations. I investigated offenses including burglaries, assaults, and homicides.
4. In 1996, I was working as a deputy at the Lee County Sheriff's Office when Stacey Stites ("Ms. Stites") was murdered.
5. Though I did not know Ms. Stites personally, I knew her fiancé at the time, Jimmy Fennell ("Jimmy"). Jimmy was an officer at the Giddings Police Department. I knew Jimmy from around town, and because we were both local law enforcement officers. The Lee County Sheriff's Office often assisted the Giddings Police Department on calls. I recall Jimmy being present at several of the calls I provided support on. In this way, I became familiar with Jimmy.
6. I and many other law enforcement officers paid our respects to Ms. Stites and her family by attending her funeral. I have been shown a copy of a 33-page document entitled "Register of Friends and Relatives." It is a registry in which people who attended the visitation services for Ms. Stites signed their names. I have identified my signature on the last line of page 9. I signed this registry at the funeral home on the day I attended the services for Ms. Stites.



10 of 2

7. I recall that at the viewing services, Ms. Stites's body was inside of a casket in a small viewing room. Her body was dressed in a white dress which looked like a wedding dress. I distinctly remember standing in the doorway to the viewing room next to Jimmy Fennell. Jimmy was looking at Ms. Stites. At that moment, Jimmy said something that I will never forget. Jimmy said something along the lines of, "You got what you deserved." Jimmy was directing his comment at Ms. Stites's body. I was completely shocked and floored by what Jimmy said. It did not strike me as something a grieving partner would say to their murdered fiancé.
8. Over the years, I have often thought about what Jimmy said at Ms. Stites's services. I am still shocked by it. Recently, after reading about Rodney Reed's case in the newspaper, I started thinking about what Jimmy said more and more. I told a couple friends and my wife about what I heard Jimmy say. The more I thought about it, the more I knew that I would not be able to live with myself if I did not come forward.
9. I know that Rodney Meyer and Rocky Wardlow would be good sources of information about the Stacey Stites murder investigation. I know both personally. The Lee County Sheriff's Office assisted on the investigation. Rodney Meyer was the chief deputy at the Lee County Sheriff's Office. Rocky was a DPS Ranger. Both Rocky and Rodney assisted with the Stites murder investigation.

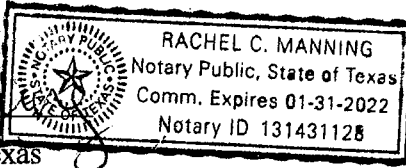
I have read and reviewed this 2-page affidavit. After reading each page, I initialed the bottom of each page.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct to the best of my knowledge and that this affidavit was executed on the 3 day of October, 2019 in Giddings, Texas.

Jim Clampit  
Jim Clampit

Sworn to and subscribed before me on the 3 day of October, 2019, by Jim Clampit.

Rachel C Manning  
Notary Public, State of Texas



JC



# Exhibit 3



Register of Friends  
and Relatives

Lynette Letimer  
Norm + Alice Hochdorf  
Marian T. Ramo  
Cindy Gonzales  
Alayne Fletcher  
Linda Kellar  
Karen Hauser  
Lili Leskar  
Tamela Dunk  
Susan Schurtz  
Hershel W. & Brenda Lett <sup>with all our love</sup>  
Maria Bryant Joe Bryant <sup>are staying</sup>  
Rhonda Bennett <sup>put in place</sup> <sup>Had to with you!</sup>  
Lickie Miles  
Sally Schreder BCSO  
John D. Wellen BCSO  
Jim Host BCSO  
Adam Gonzales LEE Co. 50  
Jim Clumpit LEE Co. 50 for Clumpit

10.3.19

# Exhibit 5

**AFFIDAVIT OF RICHARD DERLETH**

THE STATE OF TEXAS           §  
  §  
COUNTY OF BASTROP         §

BEFORE ME, the undersigned authority, personally appeared Richard Derleth, who, being duly sworn upon his oath according to law, said as follows:

1.     My name is Richard Derleth. I am over twenty-one years of age and am fully competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct.

2.     I started working at the Bastrop County Sheriff's Office during the time that Fred Hoskins was Sheriff, and stayed until 2002. I began as a jailer and then became a deputy. In April of 1996, I was a deputy.

3.     While at the Sheriff's Office I got to know Jimmy Fennell and would see him at work during the time that he worked there. We had a professional relationship. I vaguely knew Stacey Stites from her job at the H-E-B grocery store. I went to the store frequently, probably two or three times a week, to get items or food or a quick snack. I remember seeing her on occasion and greeting her once or twice. I did not get to know her any better.

4.     I did get to know the check-out staff at the store, and I spoke to them more often. In fact, I would see and speak to them on the way in and out of the store. They seemed friendly and happy to speak with me. We would talk casually, sometimes about things going on in their lives and sometimes about things going on in the store.

5.     On at least one occasion, probably in early 1996 before Stacey died as I recall, I remember a member of the check-out staff telling me something concerning about Stacey Stites and Jimmy Fennell. Specifically, they told me that members of the staff would keep a look-out for Jimmy Fennell to see if he would come into the store. They told me that if they saw Jimmy


coming into the store, they would tell Stacey and she would run and hide from Jimmy. They told me they were concerned that if they did not alert Stacey to Jimmy's presence in the store before he found her, he would start a verbal fight with her.

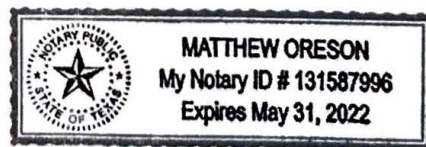
6. When I received this information, I shared it with a few members of the Sheriff's Office, but mostly kept it to myself because I tried to avoid creating a problem for the employees at H-E-B who shared this with me. I am not sure what the members of the Sheriff's Office I told this to ever did with it.

Further Affiant sayeth not.

  
Richard Derleth

Subscribed and sworn to before me this 9th day of November, 2019, to certify which witness my hand and official seal.

  
Notary Public in and for the State of Texas



# Exhibit 6

**DECLARATION OF BRENT SAPPINGTON**

THE STATE OF TEXAS           §  
  §  
COUNTY OF PARKER           §

I, BRENT SAPPINGTON, declare as follows:

1.       My name is Brent Sappington. I am over twenty-one years of age and am fully competent to make this Declaration. I have personal knowledge of the facts set forth in this Declaration, and they are true and correct.

2.       In early 1996, my wife, Vicki, and our two children lived in Giddings, Texas, close to my father, William Frederick Sappington. He lived at the Rolling Oaks Apartment Complex, and we lived not far from him, closer into town.

3.       I spent a lot of time at Daddy's apartment with him and my family.

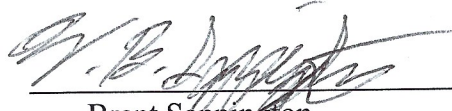
4.       One time in the earlier part of 1996, I don't recall if it was day or night, I was over Daddy's apartment and I heard a lot of loud noises and banging above his apartment. It startled me because it sounded like loud arguing and fighting. I asked Daddy what that was, and I remember him telling me that it was Jimmy yelling and screaming and "getting into it" with Stacey. I remember either saying, or thinking to myself, that they were making a lot of racket.

5.       It was not a surprise to me because Daddy had told us before that he was concerned about the way the neighbor above him, a man named Jimmy, treated a young lady named Stacey. He told us that he would hear Jimmy yelling at Stacey at night. He said it was always Jimmy's voice that he heard and that Jimmy's language was abusive toward Stacey. Daddy lived in Apartment 501 at Rolling Oaks at that time.

6.       At this time in my life I was in my early 30s and weighed about 185 pounds. I am 6-feet-1. I consistently wore a mustache and had what you would call either light, or sandy brown, colored hair.

7. I have reviewed the information and statements in my wife Vicki Sappington's declaration and all of the information and statements therein are true and correct according to my recollection.

I have read and reviewed this declaration. I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct to the best of my knowledge and that this declaration was executed on the 10<sup>th</sup> day of November, 2019.

  
Brent Sappington



# Exhibit 7

**DECLARATION OF VICKI SAPPINGTON**

THE STATE OF TEXAS           §  
  §  
COUNTY OF PARKER           §

I, VICKI SAPPINGTON, declare as follows:

1.     My name is Vicki Sappington. I am over twenty-one years of age and am fully competent to make this Declaration. I have personal knowledge of the facts set forth in this Declaration, and they are true and correct.

2.     Around 1992, my husband, our two children and I moved from Ledbetter, Texas to Giddings, Texas. At that time, my father-in-law, William Frederick Sappington, lived with us, and he made the move from Ledbetter to Giddings with us. Later, he moved into his own apartment at Rolling Oaks Apartment Complex in Giddings. I was close to my father-in-law and called him "Daddy."

3.     Daddy was very helpful to us while we were in Giddings. Our children enjoyed spending time with him, as did my husband and I. We went to church together and did just about everything else together with Daddy. He was very much a part of our family.

4.     In early 1996, Daddy lived in Apartment 501 at the complex.

5.     Daddy was very social and enjoyed getting to know people around him. At some point, he told my husband and I that the man who lived above him in apartment 502 was a police officer named Jimmy Fennell ("Jimmy"). He also told us a young lady spent time with Jimmy in his apartment. He told us her name was Stacey and that she was engaged to be married to Jimmy.

6.     Daddy told us that he was very concerned about the way Jimmy treated Stacey, however. He told us that he would hear loud noises and thumping sounds at all times of the night from arguments above him. He said it was always Jimmy's voice that he heard and that Jimmy's language was abusive, aggressive, and angry toward Stacey. He would yell and scream at her.

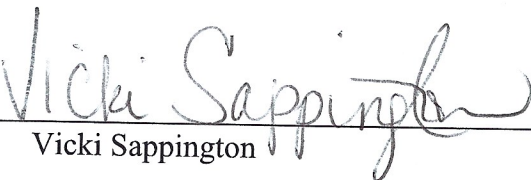
Daddy mentioned that this happened often and he often relayed these stories to us. He told us specifically that he was concerned for Stacey because the aggression seemed to be directed at her in these arguments—not the other way around. Based on the loud noises and thumping, and Jimmy's tone, Daddy told us he believed Jimmy was also physically abusive to Stacey.

7. Regrettably, I remember discouraging Daddy from getting involved or speaking out while she was alive. I told him that he could not be sure what was going on and probably should just stay out of it.

8. When Stacey was killed, Daddy was devastated, and he told us that he contacted law enforcement to tell them what he knew about Jimmy's abuse but was told that Jimmy would not do that type of thing and was not involved in Stacey's death. He told me he could not understand why investigators were not more interested in speaking to him since Jimmy and Stacey were directly above his apartment.

9. Because of what he heard and experienced at that apartment complex, daddy never believed that anyone other than Jimmy Fennell could be responsible for Stacey's murder. Daddy was very sharp until the day he died and never had memory or cognitive issues.

I have read and reviewed this declaration. I declare under penalty of perjury under the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge and that this declaration was executed on the 10th day of November, 2019.

  
Vicki Sappington

# Exhibit 7a

## DECLARATION OF REBECCA PEOPLES

THE STATE OF TEXAS                   §

§

COUNTY OF BASTROP                   §

I, REBECCA PEOPLES, declare as follows:

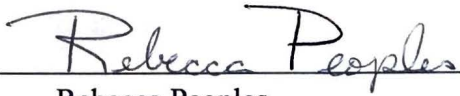
1.     My name is Rebecca Peoples. I am over twenty-one years of age and am fully competent to make this Declaration. I have personal knowledge of the facts set forth in this Declaration, and they are true and correct.
2.     I worked at the H-E-B in Bastrop, Texas, for many years. In fact, I retired from H-E-B after 25 years of service. I also worked at the store during the time that Stacey Stites was employed there. She was very nice, very pretty, and very strong. Sometimes we worked together in the morning when very few other employees were there and because of that, we got a chance to talk. Our conversations were usually casual but sometimes we shared personal details.
3.     A number of times she spoke about the fact that she was engaged to be married, but she said she was afraid of her fiancé. She never elaborated on why she was afraid. I was more than twenty years her senior and had been in bad relationships in the past myself, so I could understand and empathize with her. I think we bonded a bit over our shared experiences. I don't remember that she ever told me her fiancé's name. She either mentioned, or I came to learn on my own, that he was a police officer.
4.     Stacey also mentioned that she was having an affair with a black man. She never told me who he was or mentioned his name, but I remember on one occasion when we

RP

talked there in the store about our lives she shared this detail. I am not sure why she told me this, except that maybe she felt comfortable with me.

5. I did not share this information with anyone before the trial of Rodney Reed because I did not realize that it was important and no one ever approached me.

I have read and reviewed this declaration. I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct to the best of my knowledge and that this declaration was executed on the 10<sup>th</sup> day of November, 2019.

  
Rebecca Peoples

RP

# Exhibit 8



## CONTINUATION

DATE: 11-27-96

PAGE: 2

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
CAPITAL MURDER - FC	RHQ96025	C	CRIMINAL
BASTROP COUNTY - 011	ACTIVE <u>X</u> INACTIVE <u>  </u> CLOSED <u>  </u> RESTRICT <u>  </u>		
STACEY STITES, W/F	BY: L. R. WARDLOW, SGT.		
04-23-96			

approximately 3:00 am this date. Co-workers had contacted the family at approximately 7 am advising STITES had failed to report.

3. Bastrop Police Officer Paul ALEXANDER had requested a registration request on Texas LP NM-6346 at 5:23 am. This was the same vehicle driven by STITES which is registered to her Fiancee', Jimmy FENNELL, a police officer with the city of Giddings. Officer ALEXANDER logged the vehicle parked behind the Bastrop High School at 5:23 am. The vehicle is described as a maroon 1995 Chevrolet S-10 extended cab pickup.
4. Writer met with Chief DUNCAN at the Bastrop Police Department and was advised the vehicle had been stored at Basco Wrecker in Bastrop. According to Chief DUNCAN, a piece of the victim's belt described as a leather web weave and carbon check copies belonging to Jimmy FENNELL's checkbook had been recovered laying outside the vehicle, which had been left in parking space #113. The vehicle was found locked and the keys were missing.
5. Writer was advised the victim normally drove west from Giddings along US 290 and then west along TX 21 into Bastrop. She was scheduled to be at work at 3:30 am this date.
6. The writer, along with Chief DUNCAN went to the Basco wrecker service and examined the vehicle driven by STITES. The following information was noted by the writer:
  - a. The vehicle was a five speed manual transmission which was in the neutral position.
  - b. The radio was in the "on" position with the volume turned down and was tuned to station 1300 am.
  - c. The odometer reading was 22,329 and the tripometer read 139.9 miles.
  - d. The headlights were in the "off" position. All lights worked properly.
  - e. The fuel gauge indicated between 1/8 and 1/4 of a tank. (one fuel tank).
  - f. The emergency brake was in the "off" position.
  - g. The a/c was in the "defrost" position.
  - h. The temperature setting was at the coldest level.
  - i. The fan was in the "low" position.
  - j. The center armrest was in the closed position and was down.
  - k. The vehicle was locked at both doors.
  - l. Both passenger and driver side windows were "up".
  - m. The vehicle was NOT equipped with power windows or locks.
  - n. The driver seat was fully back and in a reclined position and the seatbelt/shoulder harness was buckled.
  - o. The passenger seat was partially back in a slightly forward position.

DPS SENSITIVE



CONTINUATION

<p>FILE TITLE</p> <p>CAPITAL MURDER - FC</p> <p>BASTROP COUNTY - 011</p> <p>STACEY STITES, W/F</p> <p>04-23-96</p>	DATE: 11-27-96		PAGE: 3
	<p>FILE NO.</p> <p>RHQ98025</p> <p>ACTIVE <u>X</u> INACTIVE <u>  </u> CLOSED <u>  </u> RESTRICT <u>  </u></p> <p>BY: L. R. WARDLOW, SGT.</p>	<p>TYPE</p> <p>C</p>	<p>PROGRAM CODE</p> <p>CRIMINAL</p>

p. some type of viscous fluid was noted in the passenger floorboard and the transmission hump.

7. Contents inside the vehicle were noted as follows:

- a. One single black/white Nike high top tennis shoe with the laces undone located in the front passenger floorboard.
- b. One single gold loop type earring located in the front passenger floorboard.
- c. One black back support located in the front passenger floorboard.
- d. One black handle single edge knife in a metal sheath located in the rear floorboard.
- e. Various articles of clothing, including a red HEB workshirt located in the rear floorboard.
- f. One baseball glove located in the rear floorboard.
- g. One monthly planner located under the center armrest.
- h. One HEB employee nametag bearing the name "STACEY" attached to the driver side visor.

8. Writer requested that the pickup driven by the victim and recovered by Bastrop Police be transported to the DPS Crime Lab in Austin for evidence processing. Bastrop Police investigator Ed SALMELA accompanied Basco wrecker as they transported the vehicle.

9. Writer contacted the DPS aircraft section and requested the assistance of a helicopter to assist in searching the route believed to have been driven by the victim. At approximately 2:00 PM, The writer met with the DPS pilot and an aerial search was begun along TX 21 and US 290.

10. Shortly after 3:00 PM, Bastrop Police Chief DUNCAN requested the helicopter to land along FM 1441 in order to meet with the writer. Upon landing, Chief DUNCAN advised the body of the victim had been found. Writer rode to the location with DUNCAN and met with Bastrop County Sheriff Fred HOSKINS.

11. A passing motorist, identified as Kenneth Wayne OSBORN had seen the partially clothed body of a female laying in the east ditch among thick brush on Bluebonnet Road. OSBORN had contacted the Sheriff Department to report the discovery. OSBORN is an employee of the Texas Governor's Land Office.

12. Bastrop County Deputies SIMON and VAN HORN were near the body. The writer and Deputy PENCE placed a second barrier tape up to preserve the scene.

DPS SENSITIVE

000272

# Exhibit 9

Notes From Investigation of L-246937:

KHB  
*AKB*

Victim: Stacey Stites

Date: April 23, 1996

On Tuesday, April 23, 1996, Wil Young asked me if I could search a vehicle involved in the disappearance of a young female. He informed me that the vehicle would be ready to be searched in the shops about mid-afternoon of that day. I agreed to do the investigation.

I spoke with Steve Robertson and he gave me additional details regarding the case: the missing person was a young woman who was on her way to work at the Bastrop H.E.B. about 2:30 that morning; when she did not appear, authorities were alerted. Her abandoned truck was found behind Bastrop High School about 5:00 - 5:30 a.m. There were signs of a struggle: some checks were found on the ground, one of her shoes and her work shirt were in the truck. It was also reported that some "body fluids" were evident. A piece of belt with buckle were also present.

An investigation team was assembled composed of the following personnel: Karen Blakley, Javier Flores, Gene Lawrence, Terry Sandifer, Gene Henderson (he joined the team shortly before leaving for Bastrop), Michael Holle.

We received notice that the truck was in the shop to be searched. Deputy Ed Salmela (Bastrop County) was in custody of the vehicle. The team met Deputy Salmela at the shop at 3:00 approximately. Shortly after we arrived, we received word that a body had been found, but had not as yet been identified. The team decided not to work the truck until final word had been received as to the identity of the body. Meanwhile, the team lightly surveyed the truck from the outside. I noticed the following: the windows of the truck were up; driver's side door was locked; some type of viscous fluid was present on the floor (transmission hump); a black and white shoe was in the cab of the truck; also present was what looked to be a knife; the driver's seat was slightly reclined and the seat belt/harness was buckled. No visible damage was noticeable to the outside of the truck. There was some other type of sports gear in the extended cab of the truck as well.

Positive identification of the body was relayed to us and we returned to the lab to prepare for a larger investigation and to get the Crime Scene Vehicle. It was agreed that the team would follow Deputy Salmela to the scene. The team left for the scene about 4:15 - 4:30 p.m.

On the way out, we picked up Gene Henderson, who was to video the scene. We traveled down Highway 290 to 95 South, left onto FM 1441 and right onto Bluebonnet Lane. About 0.6 mile down Bluebonnet Lane, we saw several Sheriff's vehicles. Beyond the vehicles, an area had been sectioned off with crime scene tape. At the scene, I met Ranger Rocky Wardlow, Deputy David (?) Campos, Sheriff Fred Hoskins, two Justices of the Peace and several other Sheriff's Deputies.

The body lay about 10 - 15 feet from the road, behind some sapling trees. The body was covered with a green rug/blanket. Beyond the body, to the left, was a survey pin. Javier and Gene L. made measurements using this pin as a guide as well as other landmarks to position the body and

document the scene.

A portion of belt lay on the road and off to the side. A white shirt lay just beyond the belt, in the grass/trees. Drag marks were noted in the dirt near the side of the road.

The scene was videoed and photographed. Gene L. first surveyed the scene/body to look for trace evidence. A short time later, I viewed the body. I recall the following:

- The body of a young female was lying partially on her side and back. A small mound of dirt propped her body a little to the side. Her arms were stretched out away from her. The right arm crooked into a right angle, the left arm raised above her head. Her head was turned to the right. Her legs/knees were together and drawn up to form a right angle.
- She wore no shirt, but had a black bra, blue pants (unzipped and parted), green cotton bikini panties, white socks, and one shoe.
- There were scratches on her abdomen and arms (to a lesser extent). Samples of thorny foliage found nearby were sent to the M.E.'s office to determine if they might be the cause of such injuries. Shallow wounds on her back, arms, legs were evident. Ants were also present in and around these wounds. Samples of ants were also sent to the M.E.'s office.
- An H.E.B. identification badge was found in the crook of the right knee of the victim's pants. It did not seem to be clipped to the pants.
- Mucous-like stains were present on the thigh area of the pants. Some of these stains appeared to have dripped onto the pants and run down one side. AP spot tests were negative.
- The victim's face exhibited a green colored tint or discoloration along the jawline and into the hair on the left side of the face. The victim's lips were nearly black in color and ants were present.
- A noticeable red line, about an inch wide with a detectable pattern, was found on the victim's neck. It seemed consistent with the webbed belt portion found on the roadway.
- The victim's ears were pierced, but earrings were not present. An earring back was found wound in her hair near her left ear. A gold-tone barrette was also present in her hair.
- Upon first viewing the body, the nose and mouth had a small amount of dirt in them. Later, I noted that the nose was nearly clear of dirt, and more mucous had flowed from the nose.

- A wound similar in appearance to a cigarette burn was evident on one wrist.
- The victim's fingernails were cut very short. The hands were bagged before the body was transported to the M.E.'s office.
- When the victim was rolled over onto her stomach, it was noticed that her back contained many shallow wounds. Very small amounts of blood were evident on the grass. The area of grass under the hips were wet as were the back side of the pants.
- Two funeral directors helped to roll the body and place the body in a plastic body bag. After the body had been removed from the scene, I examined the body a little more closely before it was transported to the M.E.'s office.
- I noticed that some of the abdominal scratches were covered by the black bra. As I pulled up the bra, I saw that the underside of the breasts were light brown, textured and stiffened. These areas were limited to a portion of the underside of each breast. The breasts were swabbed with sterile swabs to remove any foreign body fluids present. As I swabbed, portions of skin came away with the swab.
- It was noticed that several areas of the skin peeled easily, especially in the areas covered by clothing.
- Hairs were removed from the victim's sock, back, between the legs on the body bag and in pubic area tape lifts.
- I looked at the victim's pants, socks and shoe and removed these items for transport back to the lab.
- The victim's panties were noticed to be wet. Inside the panties was a light discoloration on the crotch fabric. AP spot test of a crusty area was negative. There were flakes of some kind present on the mons pubis. I collected one of these for examination.
- After the tape lifts of the pubic area, I removed the panties for evidence. I also collected four vaginal swabs. AP spot tests were slow to respond, but did turn a dark purple at about 30 - 45 secs. (Consistent with a 2+). I then collected four vaginal swabs from just inside the vagina for analysis at the lab. The anal area could not be observed because of the position of the victim.
- Upon return to the laboratory, one of the vaginal swabs was smeared on to a microscope slide for examination of sperm. A quick look at the slide revealed three intact sperm. The vaginal swabs and other breast swabs were air-dried overnight and placed in the Search Room refrigerator.

- I paged Rocky Wardlow at about Midnight to let him know the results of the vaginal swab search.
- We returned to the laboratory about 11:00 p.m.; the evidence was safely stored for the night and a preliminary exam conducted on the vaginal swab slide.

On Thursday, I viewed the victim's truck for the first time. Wil and Javier and Gene searched the truck the previous day and earlier Thursday morning. We were trying to determine if the victim could have been assaulted over the hood of the truck. There was no indication that such an event took place. We also removed the victim's red work shirt from the truck (at the Ranger's request).

A few other observations were made about the truck:

- Mucous-like stains were present in the middle of the truck and over onto the passenger area (including the floor). This indicated that the victim may have had contact with this side of the truck. We thought that she may have been removed from the truck out the passenger side. The victim and I are about the same height and weight. I sat in the driver's seat and Michael Holle easily pulled me out the passenger door. Wil was also able to pull me out the driver's side door, feet first, under the seat belt.
- Wil noticed that when he sat in the reclined seat, the rear view mirror gave him clear view out the back.

# Exhibit 10

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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Stacy was the type of person that might even go for a ride with somebody she really didn't know. On one occasion she even went out for a drink with another employee, Kevin Kaspar.

**3:00 p.m.**

**Sara Moore, Close Friend  
709 Spring St.  
Bastrop, Tx 78602  
321-1700**

Sara moved to Bastrop from Maryland about 2 years ago. Met Stacy through a mutual friend, Heather McBryar who lives in Smithville, Texas. Heather and Stacy went to high school together. Sara met Stacy at a party. Said Stacy was a very friendly and outgoing person who didn't care what others thought about her. She was very blunt and outspoken. She was a very tuff and feisty person. Heather and Stacy got into an argument over some rumors. As a result their relationship separated a little. Heather and Stacy hadn't talked since. Sara advised she didn't want to take sides because she was going to move in with Heather. Heather wanted to attend Stacy's wedding but didn't want to ask Stacy. Sara last spoke with Stacy over the phone. It was about a week before she was killed. The conversation was regular and brief. Stacy didn't mention having any problems. At one time Stacy mentioned an ex-boyfriend who was very violent towards her. He was very possessive and jealous. He was going to move to Houston, Texas. Stacy told her the boyfriend last called her in January 1996. They dated each other when Stacy lived in Corpus Christi, Texas. The guy was the father of her son. Sara also mentioned Stacy dated a guy named John who lived in Smithville. Stacy dated him before she got together with Jimmy Fennel. John babied Stacy to much and annoyed her. Stacy also mentioned an ex-boyfriend who lived in California and he was coming down to visit her. Stacy didn't tell Jimmy Fennel.

Stacy was very much a flirt, but was very much in love with Jimmy Fennel. Sara believes Stacy, or any other person would have an affair if they thought they could get away with it. When Sara went out with Stacy it would be just the two of them and Heather McBryar. Sara said guys liked being around Stacy because she was so outgoing. Stacy confided mostly with her mother and Heather McBryar. Stacy liked to play sports, mostly softball and she liked to work-out.



**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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They went bowling every so often but for the most part they didn't leave Bastrop. Sara believes Haley Hogan was pretty good friends of Stacy. Haley has a boyfriend named Henry who drives a white Camero. Henry was a rude person.

Stacy was referred to as "The Girl" at Coverts. Chris Cook, Kevin Kaspar and Bruce Fennel were all Covert employees. Chris Cook had been asking a lot of questions about Stacy. Kevin Kaspar and Stacy went out to lunch a few times. Stacy said she really had a crush on Kevin, but he never put the make on her. She got frustrated with him because of that. Kevin confided in Stacy and told her his girl problems. Kevin is planning on marrying a girl he got pregnant.

**Investigator's Observation;**

Sara left the office. I observed her sitting in her car obviously upset and crying. About 20 minutes later she returned and advised she had been getting obscene calls to her pager. The calls started a couple of days after Stacy's murder. The caller is believed to be a black male. Sara said he showed up at their work in Austin, but she wasn't there at the time. The calls occur at all hours of the night.

May 16th

2:55 p.m.      Haley Hogan 7/27/78; Close Friend/HEB  
91 Cassel Way  
Bastrop, Tx 78603  
303-3033

Haley is a life long resident of Bastrop County and has known Stacy about 2 years. They became closer friends when Stacy started working for HEB in Bastrop. Haley has also been working at HEB since last August (1995). Haley states that Stacy and her ex-boyfriend John Lastivica didn't get along very well and she referred to him as a jerk. John is currently in the military stationed in California and has been gone for several months. Stacy worked all the time and didn't have much time to go out with her friends. Saw her two days before she was murdered. Stacy never mentioned having problems with anybody and seemed pretty happy. Stacy mentioned that she endured constant sexual harassment while working at Coverts. She never mentioned names. Stacy acted happy about the marriage to her current boyfriend. Haley met him at HEB on two occasions.

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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Being a female HEB employee you are always subjected to sexual harassment. The men are always saying sexual things, pointing and looking in a sexual way. Stacy was also friends with Haley's ex-boyfriend, Henry Young. Haley said that Stacy and Heather Mc Bryar were on the outs because of their friendship. John Lastovica was the oddball of the group. He was kind of two faced. Some even thought he was gay. He was jealous of girls who dated his friends and was always trying to wreck their relationships.

Stacy worked 40 hours a week and when she wasn't working she was at home with Jimmy or her mother. Stacy was a happy person. She always had a smile. She was very mature for her age. Haley could see how some guys might mistake her friendship for flirting, but that was the way she was. Haley thinks the person responsible for Stacy's death is somebody she knew, like a stocker or ex-boyfriend. She would have had to know the person well enough to allow that person to get that close to her. She wouldn't let just anybody in her truck. Stacy was the type of person that would have fought back. Rumor has it that the killer is a black HEB stocker that got off work about the time Stacy arrived. Rumor: Chris Haynes was at Farmco on S.H. 95 on the morning Stacy was killed bragging. He was saying that he did something to her. He is a drug dealer. Rumor: The boyfriend did it.

4:45 p.m.

Kevin Kaspar: Friend & Coverts Emp.  
507 Pahihi  
Bastrop, Tx 78602

Met Stacy when she started working for Coverts. They went to lunch a few times. Stacy was very easy to get along with and she was very outspoken. Knows nothing negative about Stacy. She was pretty much friends with all employees. Nobody at work had a crush, or took an active interest in Stacy, except for Mike Kirby. They had a father daughter type relationship. Never heard anybody make sexual comments about Stacy. Kevin knew Jimmy Fennel, Stacy's current boyfriend. He came to pick up Stacy a few times. He dropped his car off a few times to have it worked on.

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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Kevin suggested we might look at Thomas Avery, Lisa Avery's husband. Thomas didn't treat Lisa very well and he hung around with Stacy. Lisa and Thomas fought all the time and Thomas had been in trouble with the police a few times. Kevin didn't really like him because of the way he treated people. Stacy mentioned having problems with an ex-boyfriend that lived in Corpus Christi, Texas but did say what kind of problems they had. Stacy was always talking about her up coming marriage to Jimmy. Kevin last saw Stacy a couple of weeks before her death.

May 17th

9:00 a.m.

**Tino Marino  
HEB Employee Georgetown, Tx**

Tino met Stacy during a week long HEB training seminar. Didn't know her before then and has seen her only a few times since. Once at HEB and twice at Wal Mart. Stacy talked mostly about her fiancée.

While at seminar they went to lunch together one time. Stacy talked quite a bit with another 22 or 23 year old male who was also attending the seminar. Stacy stayed in contact with an employee named Lawanda. Last saw her in Wal Mart about 2 or 3 months ago. Stacy was a good open person. She had a very outgoing personality. She was committed to her fiancée. She liked horses. Tino never asked her out. Stacy never mentioned any problems with boyfriends or anybody else. Tino learned of Stacy's murder from Susan Byars, another Georgetown HEB employee. Tino thinks Stacy was pretty street smart and would not have stopped for anybody. Nobody at the HEB store kept in contact with Stacy except for Susan Byars.

10:20 a.m.

**Susan Byars 08/09/55: HEB Emp.  
806-A Judy  
Georgetown, Tx  
Ph # 869-6205**

Knew Stacy through HEB training seminar. They never stayed in touch. While at the seminar Stacy talked about how she didn't like the long drive to and from the seminar. She was excited about her up-coming marriage. While at the seminar she hung around Tino. Stacy was a nice girl. Susan found out about Stacy's death from the news.

# EXHIBIT 20

042596: ON THIS DATE, I SAT IN ON AN INTERVIEW OF JIMMIE FENNEL, THE FINANCE OF THE VICTIM. HE SAID THAT THE LAST TIME HE SAW STACY WAS THE NIGHT BEFORE SHE DIED. HE SAID THAT SHE WENT TO BED AT ABOUT 8:30 TO 8:40 P.M. HE SAID THAT HE STAYED UP WATCHING THE DISCOVERY CHANNEL. HE RELATED THAT HE WENT TO BED AT ABOUT 9:00 P.M. FENNEL SAYS THAT STACY'S ROUTINE WAS TO GET UP AT ABOUT 3:00 A.M. AND LEAVE WITHOUT EATING BREAKFAST. SHE MADE IT A HABIT NOT TO WAKE HIM WHEN SHE LEFT FOR WORK. AS FAR AS HE KNOWS, SHE LEFT AT THE SAME TIME ON THE 23RD THAT SHE NORMALLY DID, 3:30 A.M.

FENNEL SAYS THAT AT ABOUT 6 TO 7 A.M. STACY'S MOM CALLED HIM AND ASKED HIM IF STACY WAS HOME. HE SAID THAT HE TOLD HER THAT SHE HAD GONE TO WORK. HE WAS TOLD THAT SHE HAD NOT SHOWN UP AT WORK. HE SAID THAT HE THEN GOT DRESSED AND DROVE THE ROUTE SHE NORMALLY DID, AND DID NOT LOCATE ANY SIGN OF HER. HE THEN CALLED THE SHERIFF'S DEPARTMENT, AND A WELFARE CONCERN BROADCAST WAS THEN MADE. THE VEHICLE WAS LOCATED IN A PARKING LOT BEHIND THE VOCATIONAL BUILDING AT BASTROP HIGH SCHOOL. FENNEL SAID THAT HE MET STACY AT THE SMITHVILLE JAMBOREE ABOUT A YEAR AGO WHILE HE WAS WORKING THE EVENT. HE SAID THEY DATED, AND WHEN HE WENT TO WORK FOR THE GIDDINGS POLICE DEPARTMENT HE AND STACY MOVED IN TOGETHER. HE SAID THAT STACY'S MOM MOVED INTO THE SAME APARTMENT COMPLEX TO BE CLOSE TO STACY. SHE MOVED INTO THE APARTMENT DIRECTLY BELOW FENNEL'S. HE SAID THAT STACY TOLD HIM ABOUT SOME GUYS THAT SHE KNEW THAT STILL WANTED TO DATE HER. HE SAID THAT SHE TURNED THEM DOWN SINCE SHE HAD STARTED DATING HIM. JIMMY FENNEL STATED THAT THE LAST TIME HE AND STACY HAD SEX WAS ON THE SATURDAY BEFORE STACY'S DEATH (04/20/96).

FENNEL SAID THAT ONE OF THE NAMES THAT STACY MENTIONED WAS A PERSON BY THE NAME OF JOHN THAT HUNG AROUND COVERT CHEVROLET. HE SAID THAT MIKE KIRBY MAY KNOW HIS NAME. MIKE KIRBY IS THE SERVICE MANAGER OF THE COVERT SERVICE DEPARTMENT. HE SAID THAT STACY DATED ANOTHER INDIVIDUAL NAMED JERRY THAT WORKED AT WAL-MART AND WAS GOING THROUGH A DIVORCE. HOWEVER, HE SAID THAT "JERRY" AND HIS WIFE GOT BACK TOGETHER AND MOVED TO ARKANSAS ABOUT FIVE MONTHS AGO. HE SAID THAT STACY TOLD HIM THAT SHE DATED JERRY TWICE.

STACY WAS BORN IN CORPUS. AT THE AGE OF 15, SHE GOT PREGNANT BY AN OLDER BOY NAMED GREGORY CORNER. MOTHER AND STACY DECIDED THAT SHE SHOULD PUT THE BABY UP FOR ADOPTION. THE BOYFRIEND DID NOT KNOW THAT SHE HAD A BABY. MOM WAS CONVINCED BY HER BROTHER RAY HORTON TO MOVE TO BASTROP. HORTON MOVED STACY AND HER MOM TO SMITHVILLE AND WERE LIVING ON HORTON'S PROPERTY. THERE WAS SOME SORT OF DISAGREEMENT BETWEEN STACY'S MOM AND HER BROTHER. SO THEY MOVED OFF THE PROPERTY. (HAVE TO FIND OUT WHAT THE PROBLEM WAS). ACCORDING TO FAMILY MEMBERS, SHE DID NOT MAKE CONTACT WITH GREGORY AFTER SHE LEFT CORPUS.

DURING THE COURSE OF THE INVESTIGATION, WE RECEIVED INFORMATION THAT STACY HAD HAD TROUBLE WITH ONE OF THE NEIGHBORS THE MONDAY PRIOR TO HER DEATH. I SPOKE WITH PEGGY ELSE. SHE IS A RESIDENT OF THE APARTMENT COMPLEX THAT STACY LIVES IN. SHE SAID THAT THE MONDAY BEFORE HER DEATH STACY HAD BEEN HAVING PROBLEMS WITH THE MALE RESIDENTS OF APARTMENT #610. SHE SAID THAT THEY HAD MADE CRUDE AND VULGAR COMMENTS TO HER AND THAT STACY HAD COMPLAINED ABOUT IT TO THE

000014

RUN DATE. 7/01/97 \* BASTROP COUNTY SHERIFF'S OFFICE \*  
0096 33350 INCIDENT REPORT

PAGE: 11

KIRBY STATES THAT HE SAW THE VICTIM APPROXIMATELY THREE (3) WEEKS, PRIOR TO HER DEATH, AND THAT SHE WANTED HIM, KIRBY, TO GIVE HER AWAY AT HER WEDDING, TO WHICH HE AGREED TO DO.

KIRBY WAS ASKED TO VOLUNTARILY GIVE A BLOOD, HAIR, AND SALIVA SAMPLE, HE AGREED TO DO SO. HE WAS GIVEN A CONSENT FORM, AND SIGNED IT IN FRONT OF WITNESSES. BLOOD, HAIR, AND SALIVA WERE TAKEN BY JAIL, MEDICAL PERSONELL. THE SAMPLES WERE SUBMITTED TO THE D.P.S. LAB, BY THIS OFFICER ON 051096.

BARTON 309

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ITEMS INCLUDED:

SIGNED CONSENT FOR SEARCH AND SEIZURE  
COPY OF PHYSICAL EVIDENCE SUBMISSION FORM (KIRBY)

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HOMICIDE

051696

SUPPLEMENT

ON 051696, I WAS CONTACTED BY DETECTIVE HOFFMAN FROM FAYETTE COUNTY, REFERENCE THIS CASE. FRANK TOLD ME THAT HE WAS IN WEST POINT THE OTHER DAY, WHEN HE WAS ASKED BY A WHITE MALE NAMED JOHNNY EARL MCCOY JR., [REDACTED], 138 E. STATE LOOP 543, WEST POINT, TX 78963, PH #409-242-3946, 5'11", 120 LBS, BROWN HAIR AND BLUE EYES, IF HE KNEW IF THEY, MEANING BASTROP COUNTY, HAD FOUND STACEY STITES' KILLER. FRANK SAID THAT HE DID NOT KNOW TOO MUCH ABOUT THE CASE, SO HE TOLD JOHNNY THAT HE DID NOT KNOW, AND THAT JOHNNY TOLD HIM THAT HE KNEW STACEY, AND THAT HE HAD DATED HER, AND THAT THE LAST TIME THAT HE HAD SEEN STACEY WAS WHEN THEY BROKE UP ABOUT SIX TO EIGHT (6-8) MONTHS AGO. HE TOLD FRANK THAT HE DATED STACEY, AND KNEW HER REAL GOOD.

FRANK TOLD ME THAT JOHNNY IS KIND OF SQUIRRELY, AND HOLD GRUDGES, AND DOES RETALIATE WHEN SOMEONE MAKES HIM MAD. JOHNNY WAS ARRESTED FOR DEADLY CONDUCT, WHERE HE HAD BEEN FIRED BY TWO DIFFERENT BUSINESSES, AND THESE TWO BUSINESSES WERE SHOT-UP BY JOHNNY, AND A RUNNING BUDDY OF JOHNNY'S, WILLIAM THOMAS TURNER, AKA "BILLY," WHITE MALE, [REDACTED], BLUFF VIEW MOBILE HOME PARK #1, LAGRANGE, TX 78945, PH #409-968-8678, 5'08", 125 LBS, BROWN HAIR AND EYES. BOTH JOHNNY AND WILLIAM WERE ARRESTED FOR DEADLY CONDUCT AND BURGLARIES. JOHNNY DRIVES AN EMERALD GREEN FORD PICKUP, 95 TO 96 MODEL. BILLY DRIVES A BLACK CHEVY PICKUP, 95-96 MODEL. BOTH OF THEM ARE ON PROBATION FOR DEADLY CONDUCT.

FRANK SAID THAT JOHNNY GOES TO BASTROP, AND THE SURROUNDING AREAS ALL OF THE TIME. FOR ANY MORE QUESTIONS ABOUT EITHER OF THESE SUBJECTS CALL FRANK HOFFMAN AT #409-968-5868.

FLORES 123

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HOMICIDE

060496

SUPPLEMENT

000012

## BASTROP COUNTY SHERIFF'S DEPARTMENT

CASE # 96-3350

OFFENSE REPORTED

Homicide

DATE OF REPORT

10-18-96

SUPPLEMENT  
NARRATIVE

10-18-96 JOHN JASON CONWELL CAME TO THE S.O. AT THIS OFFICE'S REQUEST. UPON ARRIVAL CONWELL WAS GIVEN THE STANDARD MIRANDA WARNING AND CONSENTED TO TALK WITH THIS OFFICE.

CONWELL STATES THAT HE STARTED DATING SPACY IN EARLY 1995. THEY DATED FOR 4 TO 5 MONTHS BEFORE GOING THEIR SEPARATE WAYS. SUBJECT CONWELL COULD NOT ADD ANY ADDITIONAL INFORMATION TO THIS INVESTIGATION. HE WAS THEN REQUESTED TO CONSENT TO GIVE SAMPLES OF BLOOD, HAIR, AND SALIVA FOR ANALYSIS. HE AGREED TO DO SO AND THE SAMPLES WERE TAKEN BY THE MEDICAL PERSONNEL AND WILL BE SUBMITTED TO TEXAS CRIME LAB.

Full ID on Conwell is:

JOHN JASON CONWELL #1

260 2nd Ave.

SMITHVILLE TX PH# 237-2537

ENTERED JUN 26 1996

AC- Barton 6/29/96

CASE CLEARED BY:

☐ ARREST☐ EXCEPTIONALLY

1. Victim Deceased

2. Victim Refused to File

3. Forward to D.A. - Inv. Final

☐ UNFOUNDED☐ INVESTIGATION TO CONTINUE

REPORTING OFFICER:

APPROVED BY: SGT.

INVESTIGATOR ASSIGNED:

END OF REPORT (CASE COMPLETE)

I.D. #

I.D. #

I.D. #

000043

BCSOSUPP 1/96

## BASTROP COUNTY SHERIFF'S DEPARTMENT

CASE # 96-3350

OFFENSE REPORTED

Homicide

DATE OF REPORT

7-2-96

☒ SUPPLEMENT  
☐ NARRATIVE

7-2-96

MET WITH THE FOLLOWING SUBJECT:

Robert Campion w/m 22

RT #1, Box 34, Smithville TX

SUBJECT WAS GIVEN THE MIRANDA WARNING AND AGREED TO TALK WITH THIS OFFICE.

SUBJECT STATES HE MET STACY SMITH IN 1993 JUST AFTER SHE MOVED TO SMITHVILLE FROM CORPUS CHRISTI. HE STATES SHE WAS PREGNANT AT THE TIME. THEY DATED FOR A SHORT TIME AND THEN BROKE-UP JUST BEFORE THE CHILD WAS BORN. HE STATES THAT STACY WENT BACK TO CORPUS CHRISTI TO HAVE THE CHILD. HE DATED HER AGAIN AROUND THE END OF APRIL 1995. THEY DATED FOR ABOUT 1 MONTH AND THEN BECAME AS FRIENDS. HE STATES THEY NEVER HAD SEX WHILE THEY WERE DATING. AFTER THAT HE SAW HER ABOUT ONCE A MONTH AT THE H.E.B. WHEN HE BOUGHT GROCERIES. THE LAST TIME HE SAW HER WAS 2 MONTHS BEFORE HER DEATH.

Campion Consented to Give a Sample of His Blood, Saliva and Hair. These will be Submitted to D.P.S. LAB.

ENTERED JUL 13 1996

Eaton 7/18/96  
JL

CASE CLEARED BY:

☐ ARREST☐ EXCEPTIONALLY

1. Victim Deceased

2. Victim Refused to File

3. Forward to D.A. - Inv. Final

☐ UNFOUNDED☒ INVESTIGATION TO CONTINUE☐ END OF REPORT (CASE COMPLETE)

REPORTING OFFICER:

I.D. # 309

APPROVED BY: SGT.

I.D. #

INVESTIGATOR ASSIGNED:

I.D. #

BASTROP

BCSOSUPP 1/96



CASE NUMBER: 96-3350

BASTROP COUNTY SHERIFF'S DEPARTMENT  
DETECTIVE DIVISION  
SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE: HOMICIDE.

VICTIM/COMPLAINANT: STATE OF TEXAS.

On 5-16-96, I was contacted by Detective Hoffman from Fayette County reference this case. Frank told me that he was in West Point the other day when he was asked by a white male named :  
JOHNNY EARL MCCOY JR

[REDACTED]  
138 E. STATE LOOP 543 - WEST POINT, TX. 78963 409-242-3946  
5-11 120 BROWN BLUE

if he knew if they, meaning Bastrop County had found Stacey Stites killer. Frank said that he did not know too much about the case so he told Johnny that he did not know and that Johnny told him that he knew Stacey and that he had dated her and that the last time that he had seen Stacey was when they broke up about six to eight months ago. He told Frank that he dated Stacey and knew her real good.

Frank told me that Johnny is kind of squirrely and holds grudges and does retaliate when someone makes him mad. Johnny was arrested for Deadly Conduct where he had been fired by two different business and these two businesses were shot up by Johnny and a running buddy of Johnny's, being:

WILLIAM THOMAS TURNER -- AKA BILLY  
[REDACTED]

BLUFF VIEW MOBILE HOME PARK #1 LAGRANGE, TX. 78945 409-968-8678  
5-08 125 BROWN BROWN

Both Johnny and William were arrested for Deadly Conduct and burglaries.

Johnny drives an emerald green Ford pickup 95 to 96 model.

Billy drives a black Chevy pickup 95 to 96 model.

Both of them are on probation for Deadly Conduct.

Frank said that Johnny goes to Bastrop and the surrounding areas all the time. Any more questions about both of these subjects, call Frank Hoffman at 409-968-5868.

CASE CLEARED BY:

[ ] ARREST [ ] EXCEPTIONALLY CLEARED/CODE [ ] [ ] UNFOUNDED [x] INVESTIGATION TO CONTINUE

[ ] END OF REPORT [ ] WARRANT ISSUED

DETECTIVE: R. FLORES, ID# 123/1313

DATE: 5-03-96-

APPROVED BY: Di Walker

DATE: 5/25/96

000069

ENTERED MAY 27 1996  
S/M

AFFIDAVIT OF FACTS

96-3350  
INVESTIGATOR'S COPY

Before me the undersigned authority, personally appeared this date, one Jerry L. Ormand Jr., who, after being duly sworn, did depose and say: My full name is Jerry L. Ormand Jr. My date of birth is: [REDACTED], my social security number is: [REDACTED] and I reside at: Rt. 2 Box 148BT Bastrop, Tx. My phone number is: 512-303-5048, I am employed at: Union Pacific Rail Road

On May 28, 1996 around 4:20 p.m. I arrived at the Bastrop Police Department at the request of Police Investigator David Board and was interviewed by him and Texas Ranger Rocky Wardlow regarding my relationship with Stacy Stites and David Lawhon.

I began my relationship with Stacy around the middle part of May and the latter part of April 1995. I was introduced to her by my friend Michael Williams and his wife Carrie during a Dance at Watterson Hall. That same night my wife caught me and Stacy walking out together, but at that time there was nothing to our relationship. My wife Sammi Ormand and I were having martial problems and had separated several times.

My relationship with Stacy was very brief. We went out together several times over a two month period. During this time I would met Stacy in Smithville and we would go ridding. At the time I was working nights at Wal Mart and Stacy would stop by to visit. She was a nice girl and I really liked her a lot, but I didn't love her. I was not obsessed or infatuated with her at all. We were just friends.

Sometime around the last part of April 1995 Stacy and I had sex together for the first and last time. We were parked in my truck under the rail road crossing bridge in Smithville. Sometime after that Stacy mentioned she was being tested every so often for the aids virus.

The last time I went out with Stacy was on her high school graduation night. This was the night Stacy ended the relationship. She said it was because her mother didn't like me. She said it wasn't that her mother didn't like me, she didn't like the fact I was a married man. The last time I saw Stacy was when I went shopping at HEB. She was working there as a cashier and I would go through her line to check out. That was sometime during last summer of 1995.

I guess I met David Lawhon sometime around September of 1992 when he came to work at Wal Mart. David was a nice guy who liked to drink. I don't know if he drank a lot. But if he had it he would drink it, and if he had money he would buy it. I don't know if he did drugs or anything. I never saw him and he never mentioned it. David was a regular kind of guy. Somebody I allowed to watch my child. The only thing I didn't like about him was his lying. He would constantly lie about little things. He would say he would meet me somewhere and not show up. He would say he didn't have money, when he really did.

My wife and I stopped hanging out with David over a year ago when he and his girlfriend Daniella broke up. I don't know Daniella's last name. As far as I know David treated Daniella and his other girlfriends all right. I never knew of him hitting, beating or becoming violent with any of them. He never really told me about his relationships.

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Page 2 of 2

Statement of Jerry L. Ormand Jr.

I don't know if David and Stacy ever met. I never introduced them and actually I stopped hanging out with David way before I met Stacy. I heard rumor that they worked together at Covert Chevrolet but I don't know that for a fact. David nor Stacy never mentioned knowing each other.

I last seen David around May 13th or 14th of 1996. I saw him pumping gas into his blue panel work truck at the Farmco on highway 95. I didn't stop to talk or anything I just waived as I went by. The next thing I knew he was at my house. I guess he stopped by to see how I was doing or something. While David was there I told him I was having problems with my air conditioner and he but some freon in it. And in return I bought him some beer. We stayed at the house talking. We drank a few beers and he played one game of horseshoes. I even asked him if he heard about Stacy. David never responded. He just looked at me and said nothing. He just kind of blew it off I guess. My wife said he looked different, kind of cold, but I didn't notice. While he was there he spent alot of time in his work truck talking on the phone. He said he was talking to his wife. After that he left and I hadn't seen him since. The last time I saw him before that was at the Rockne Bazaar last year.

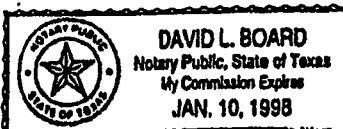
I did not have anything to do with Stacy Stites' murder and I have no idea who killed her. On that night, April 22, 1996 I was home with my wife and two kids. I have never been in Stacy's red truck therefore my prints will not be found there.

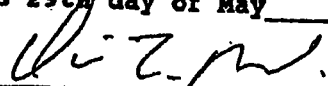
I understand because of my relationship with Stacy Stites and David Lawhon I am currently a suspect. I order to clear my name, I hereby consent to giving samples of my blood, pubic and head hairs, along with a set of my palm and finger prints. And if requested I will submit to a polygraph test. I have been informed that I have a constitutional right not to give such samples. This written permission is being given by me voluntary and without threats or promises of any kind.

This statement was typed by Investigator David Board and is true and correct to the best of my knowledge.

  
Signature

Sworn to and subscribed before me this 29th day of May, 1996



  
Notary Public in and for the  
State of Texas

000111

AFFIDAVIT OF FACTS

96-3350  
INVESTIGATOR'S COPY

Before me the undersigned authority, personally appeared this date, one Sammi M. Ormand did depose and say: My full name is Sammi M. Ormand, who, after being duly sworn, My date of birth is: [REDACTED], my social security number is: [REDACTED]; and I reside at: Rt. 2 Box 148 BT Bastrop, Tx. My phone number is: 512-303-5048; I am employed at: Wal Mart.

My name is Sammi M. Ormand and I was asked to make this statement regarding my knowledge of Stacy Stites to Bastrop Police Investigator David Board.

I first saw Stacy Stites walking out of Watterson Hall with my husband Jerry Ormand. This was around the last week of February 1995. My husband and I were having martial problem at that time. He was suppose to be working at Wal Mart that night but when I called there they told me he was not working. I knew then he was at Watterson Hall. I drove out to Watterson and parked next to my husband's truck. While waiting in the car I saw him walk out with this girl, I later found out was Stacy. When Jerry saw me he walked over and asked me what I was doing. He wanted to know why I was following him or checking up on him. I think I asked him what he was doing with that girl or something like that. I don't remember what he said, but he did say he would meet me at home.

Later that night while at home he told me that he wasn't happy with our marriage. We agreed to separate and he moved in with his parents while I stayed home with our two girls. The separation didn't last very long before he moved back. We separated about three times within a ten months period. I don't know if he was seeing Stacy at that time. I don't think he was. I know they probably saw each other from time to time but I don't think they were actually dating.

I first met Stacy face to face on Mother's Day of 1995. My husband and I were at the Oyster Bar when I saw this look on Jerry's face. I looked over and saw Stacy sitting at the table. At first I didn't know it was her. I asked some friends and they told me the girl was Stacy. I walked up to her and told her I would appreciate it if she would leave my husband alone. I told her that my husband and I were having martial problems and that we had two daughters and I just wanted her to leave him alone. She told me she was married and that she didn't need my husband. Stacy was very drunk at the time. She acted like she understood what I was saying but several times during the evening she walked right in front of me and Jerry. I heard Stacy tell this girl that she was going to take my husband to bed. After that night I never saw her again. I'm sure Jerry saw her a couple of times afterwards. I don't know when they stopped talking. I do know that around December of 1995 Jerry spoke to Stacy at HEB. I know this because I found a grocery receipt with her name on it.

On July 22, 1992 Jerry started working for Wal Mart in Bastrop and met David Lawhon. They became pretty good friends and a few times David and his girlfriend Daniella Wells came to or house. We even we out dancing a couple of times. David and Daniella didn't stay together long. David didn't care to much for Daniella. Daniella is remarried and she now goes by the last name of Ingals.

Continue to page 2

SMO

000112

Page 2 of 2  
Statement of Sammi M. Ormand

I don't know if David ever met Stacy Stites. I know he and my husband work together but that was three years before my husband ever met Stacy. I heard rumor that David and Stacy worked together at Coverts but I don't know that for a fact.

The last time I seen David was about a week before the Elgin Lady was found. I hadn't seen him in a long time and all the sudden he was there putting freon in our air conditioner. Jerry said something about seeing David at Farmco on 95 and mentioned that we were having problems with our air conditioner or something like that. I'm not sure if David followed him home and then Jerry told him about the air conditioner, or if they met at Farmco and Jerry told him.

David came in the house for just a few minutes. We made eye contact and he didn't look like the same David. He looked kind of cold, like something was really bothering him. I didn't get a chance to talk to him before he left.

Before then it's been over a year since I've seen David. I don't know the last time Jerry saw David. If Jerry had seen David he never mentioned it. David lives relatively close to us. He lives on highway 95 between Elgin and Bastrop and we live behind him in Lake Bastrop Acres.

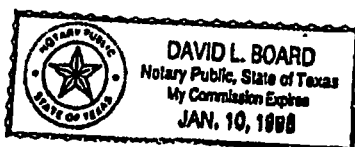
The day after Stacy's death my husband called me from home like he does ever day when he gets home from work. I asked him how he was doing and he told me he had gotten some bad news today. I told him that I already knew and I asked him how he felt about it. I don't remember what he said but I knew that he was upset. I had heard about her death before Jerry but didn't say anything to him because we were trying to put her behind us. In fact I wasn't for sure if it was the same girl, and I didn't want to bring it up if it wasn't.

On of April 22, 1996, and during the early morning hours of the 23rd, Jerry was home with me and our two children who are 7 and 3 years old. Jerry get up around 6:00 a.m. and leaves the house at 6:30 a.m. He works for Union Pacific Rail Road in Smithville, Texas. He drives a blue 1994 Ford F150. I drive a red 1993 Ford Excel four door.

This statement was typed by Investigator David Board and is true and correct to the best of my knowledge.

Sammi M. Ormand  
Signature

Sworn to and subscribed before me this 28th day of May, 1996



D. L. Board  
Notary Public in and for the  
State of Texas

000113

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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1:25 p.m.

Lisa Avery 10-24/68  
PO Box 196  
Red Rock, Tx  
321-9656

Lisa advised she met Stacy while working together at Coverts. During that time they ran around together. After work they would go shopping together at Wal Mart in Bastrop. Stacy's boyfriend, Jimmy seemed real nice and Stacy really liked him. Lisa felt he was a little possessive. He would get upset if she wasn't home on time. Stacy was a big flirt.

At one time she dated this married guy named Jerry who worked at Wal Mart. She met him at a dance. Jerry's wife also worked at Wal Mart. Jerry's wife made the statement to another Calvary Church member that she would put Stacy six feet under if she didn't quit messing with her husband. Jerry gave Lisa the creeps. Lisa advised Jerry always asked about Stacy when ever she saw him in Wal Mart. Stacy talked very little about her baby that she gave up for adoption. Guys from Coverts were always asking Stacy out. Lisa and Stacy parted over \$ 20.00 that Lisa loaned Stacy.

Stacy got in trouble at Coverts for always hanging out with Mike Kirby. At first everybody thought they were messing around with each other. The general manager put a stop to it. Stacy told Lisa a lot of her secrets. About her baby and his father. She fell in love with her babies father. He was in his early 20's. After she broke up with Jerry, the Wal Mart guy she started going out with Jimmy Fennel. This was sometime around May 1, 1995. Stacy wanted to move in with Jimmy. Lisa advised her husband Thomas Avery told her that Stacy once hit on him. Avery works as a sub-contractor for Hoskins Electric. Lisa stated he was the type of person that wanted you one minute, and didn't the next. After Stacy quite Coverts she stopped by a few times to visit friends, but didn't talk to Lisa. Stacy always seemed real happy and acted as though she wanted her job back. Jimmy Fennell really didn't like her working around all the guys.

Stacy liked to drink. She followed the band Lost Wolf. At one time Stacy did drugs. Crystal and X. Stacy really wanted to get married and settle down.

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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3:45 p.m.            Gilbert Galindo        10/7/71    HEB Emp.  
                     10016 Uriah Dr.  
                     Elgin, Tx 78621  
                     5120272-4016

Gilbert has worked as a meat cutter for the Bastrop HEB for the past two years. He knew Stacy as an employee and saw her a couple of nights a week when he worked in the deli department. Doesn't know of any problems between Stacy, her boyfriend, or employees. Gilbert knew Stacy was getting married. He didn't know Stacy when she worked up front as a cashier.. On April 23rd Gilbert was working the 5:00 a.m. to 1:00 p.m. shift. His wife dropped him off. He didn't see anybody in the parking lot and didn't notice Stacy's trucked. Doesn't even know what she drives. Doesn't know if there were any employees that were suppose to be there, that weren't. When he got to work he noticed Andy Cardenas looked confused and worried because Stacy hadn't shown up. This was sometime around 5:00 a.m. Stacy had a good personality.

4:10 p.m.            Heather Flanagan    5/10/77:  
                     Friend/HEB Emp.  
                     908 Emile St. # 9  
                     512-321-3726

Heather has worked part-time for HEB for the past 3 years. Mostly in the service department, as a checker and as a sacker. Knew Stacy form the time she came to work for HEB. Stacy never really talked about her ex-boyfriends. Stephanie Brookins knew most of them. Heather did know Dwight, unknown last name. Thinks he was about 19 or 21 years old and thinks he went to school with Stacy.. Stacy never mentioned having any problems with boyfriends. She did say that Jimmy was a jealous type person who didn't like her talking with other guys. They canceled their wedding. Stacy never said why. Heather didn't thing Jimmy loved Stacy as much as Stacy loved him. heather and Stacy didn't associate away from work. Stacy didn't like the flirting from other guys at work. She said that Frank Campian was hitting on her and she was worried that Jimmy might see him. It really bothered her. Frank didn't sign the sympathy card for Stacy's mother like all the other employees did.

**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

**Page 40 of 42**

When Heather asked him if he wanted a button with Stacy's picture on it he said "no" in a very defensive way. Everybody else wore one even if they didn't know Stacy. Even the people that worked in Franks crew wore one. Heather last saw Stacy the Sunday before her death. Stacy was working in the produce department. Didn't notice anything unusual about Stacy. She was her normal self.

Heather heard from Stephanie Brookins that an ex-boyfriend was very upset at Stacy because he was to get back with her, but found out she was engaged to be married. Stacy really didn't have a life outside of work. She was always with Jimmy or her mother.

**May 23rd                      Investigation**

2:36 p.m. I was contacted by Trooper Bob Thorp who advised he worked a motor vehicle accident involving an HEB employee, Rodney Wayne Moore on April 20, 1996. Three days before Stacy's murder. Thorp advised the accident occurred at the intersection of FM 1441 and SH 95. And Moore lived on Ash St. which was not that far from where Stacy's body was found. Thorp advised Moore's personality really got to him. He appeared to be very much a mother's boy. Thorp listed the following factors as concerns that he felt needed to be referred to investigators working the case: Moore works at HEB, dominated by his mother, lacked self-esteem, and probably knew Stacy.



**BASTROP POLICE DEPARTMENT  
INVESTIGATIVE SUPPLEMENTAL REPORT  
CASE No. 96-04-0339 MURDER  
INVESTIGATOR  
DAVID L. BOARD**

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2:20 p.m.

**Tami R Hannath 2/11/79: Friend  
PO Box 81  
Smithville, Tx**

Tamie met Stacy in high school about 4 or 5 years ago. They had a "funny" relationship but were close friends. Tami last saw Stacy around Christmas 1995. In high school Stacy and Tami hung around a small group of friends. Ricky Ingram, Shannon Snow, and Kathy Vacek. After graduation everybody kind of split up. Tami and Stacy talked on the phone a lot until Stacy moved to Giddings. After that Stacy didn't seem to have much time to call. Stacy was a very outgoing person. She was very friendly and would look out for others. Stacy dated a Smithville boy, Jeremiah Smith.

Last heard he lived in Spring Prairie, Texas. They had a good relationship. Stacy never mentioned any problems. Stacy also went out with Robert Campian a couple of times and dated John Lastovica for about 5 or 6 months. They seemed to have a good relationship. John is currently in the Army and hasn't been in town since August or September (1995). Jimmy Fennell got upset with Stacy when he found out she was going out with her friends. Thinks Jimmy even slit her tires. Jimmy wouldn't let her talk on the phone with her friends. Stacy always said she loved Jimmy. They would set wedding dates, then call it off.

Didn't think Jimmy ever beat Stacy or anything. If he did Tami thinks she would have told her. Stacy went to work at Brookshire Brothers in Smithville on the day it opened. Rumor has it that a black guy at HEB killed Stacy. He hadn't been to work since. Also that Jimmy Fennell confessed and had planted evidence. Also ex-boyfriend Jason. He was very upset at the funeral. Said he was going to kill the person who did it.

BARTON 309

HOMICIDE  
020497  
SUPPLEMENT

THIS OFFICER LEARNED FROM THE VICTIM'S MOTHER THAT A SUBJECT ID AS:  
RONNIE REVEAL W/M  
DOB 011864

HAD WORKED WITH THW VICTIM WHEN SHE WAS EMPLOYED AT BROOKSHIRE BRO'S  
IN SMITHVILLE. THE MOTHER ALSO STATES THAT THE SUBJECT WENT TO WORK +  
FOR WALMART IN DASTROP WHILE STACEY WAS WORKING AT H.E.B..  
THE SUBJECT WAS LOCATED WORKING FOR WALMART IN SAN MARCOS AND WAS  
CONTACTED BY THIS OFFICER AND RANGER WARDLOW ON 020397 AT HIS PLACE OF  
EMPLOYMENT. THE SUBJECT WAS GIVEN THE STANDARD MIRANDA WARNING AND  
AGREED TO TALK WITH OFFICERS.  
HE STATED THAT HE MET STACEY WHEN THEY WERE EMPLOYED AT BROOKSHIRE BRO.  
IN SMITHEVILLE. HE AGAIN MET HER AFTER HE TRANSFERRED TO WALMART IN  
BASTROP. HE STATES THAT HE HAD GONE TO H.E.B. ON A WEDNESDAY TO CHECK  
PRICES ON PRODUCE AND MET HER IN THE PRODUCE DEPT.. AFTER THAT ON  
WEDNESDAYS WHEN HE WOULD CHECK PRICES AT H.E.B. HE WOULD HAVE COFFEE  
WITH STACEY. HE STATED THAT SHE SEEMED DOWN QUITE A BIT AND HE ASKED HER  
WHAT WAS WRONG. SHE TOLD HIM THAT HER AND HER BOYFRIEND WERE HAVING  
PROBLEMS. AND ALSO THAT THE BOYFRIEND HAD A VIOLENT TEMPER. THE LAST TIME  
HE SAW STACEY WAS ABOUT A WEEK BEFORE SHE WAS KILLED.  
SUBJECT WAS ASKED IF HE WOULD CONSENT TO A BOLLD, HAIR AND SALIVA TEST  
TO WHICH HE CONSENTED. THE SAMPLES WERE DRAWN AT THE HAYS COUNTY JAIL  
MEDICAL FACILITY AND ARE IN POSSESSION OF THIS OFFICER. THEY WILL BE  
SUBMITTED TO DPS LAB FOR ANAYLSIS.

BARTON 309

\*\*\*\*\*

HOMICIDE  
020697  
SUPPLEMENT

020597 BLOOD, HAIR AND SALIVA SAMPLES OF RONNIE REVEAL WERE SUBMITTED  
TO DPS LAB FOR ANAYLSIS.

BARTON 309

HOMICIDE  
02-97  
SUPPLEMENT

IN FEBRUARY OFF 1997 THIS OFFICER CONTACTED HAYNES' MOTHER, MOLLIE  
LAWHON. SHE STATES THAT HAYNES HAD HITCH HIKE TO PONTIAC MICHIGAN.  
MRS. LAWHON STATED TAHT HAYNES' NATURAL FATHER LIVES THERE. SHE  
PROVIDED THE FOLLOWING NAME AND ADDRESS:

KENNETH HAYNES 1619 JOSLYN PONTIAC, MICHIGAN +  
ON 031197 THE MICHIGAN STATE POLICE WERE CONTACTED BY RANGER WARDLOW.  
WARDLOW SPOKE WITH SGT. MONFETTE AND EXPLAINED THAT WE WERE WORKING A  
HOMICIDE AND THAT BRIAN HAYNES WAS A SUSPECT. MONFETTE WAS PROVIDED  
INFORMATION AS TO THE LOCATION HE MIGHT FIND HAYNES AND THAT WE WERE  
REQUESTING BLOOD, HAIR, AND SALIVA SAMPLES. SGT. MONFETTE STATED HE WOULD

000026

# Exhibit 11

STATE OF TEXAS )

COUNTY OF HARRIS )

AFFIDAVIT OF MERRILL SUE LEWEN, M.D.

1. My name is Merrill Sue Lewen. I am over the age of 18 and fully competent to give this statement.

2. I earned my Bachelor of Arts degree from Haverford College in Pennsylvania in 1984, completed the Post-Baccalaureate Pre-Medical Program at the University of Pennsylvania in 1985, and received my Doctor of Medicine from Case Western Reserve School of Medicine in Cleveland, Ohio in 1990.

3. I have been a board-certified OB/GYN since 1997 and remain in good standing.

4. After graduating from medical school in 1990, I began an Internship and Residency Program in Obstetrics and Gynecology at MetroHealth Medical Center in Cleveland, Ohio which ended in 1994. From 1994 until 2001 I worked in private practice as an OB/GYN physician affiliated with the Virginia Mason Medical Center in Seattle, Washington. In 2001, I began private practice as an OB/GYN physician at Huntington Hospital, where I stayed until moving to Texas in 2005. I opened Town and Country Gynecology in Houston, Texas in 2005. I am currently in private practice with University of Texas Physicians at Memorial City Memorial Hermann hospital.

5. I regularly prescribe birth control pills to my patients and have done so since I began my residency in 1990. I am familiar with the brands of birth control that were available in the mid-1990s.

6. I am familiar with the facts of the murder of Stacey Stites and the case against Rodney Reed as they have been reported in the media. I have reviewed an excerpt of the testimony of Jimmy Fennell and police reports reflecting a statement made by Jimmy Fennell discussing Stacey Stites's use of birth control pills. In the trial transcript, Jimmy Fennell states:

"She was on birth control and there was a certain amount of the pills that she takes that are not actually birth control, they're just vitamins, and within that period of time there is a greater possibility of getting pregnant than the other pills and she was on those type of pills so we didn't have any kind of sexual relationship during that time."

In his statement to the police, Jimmy Fennell describes the pill she was taking a "green pill."

7. The statement made by Jimmy Fennell with regard to the risk of pregnancy while taking certain pills that he describes as "vitamins" is false. The "green pills" to which Mr. Fennell refers are placebo pills. Birth control pills generally contain three weeks worth of pills that contain hormones and one week of placebo pills; the pills to be taken each week can be different colors depending on the brand or manufacturer.

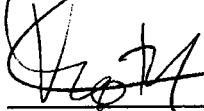
8. From my experience prescribing birth control to women since the 1990s, I am certain that nothing in any of the instructions accompanying birth control pills, or instructions from a patient's physician, would indicate a higher risk of pregnancy during the placebo pill week. No physician would have told a patient this information or put such information in a prescription, as it is simply false.

9. In over twenty years of medical practice, I have never heard of a woman who thought that there was an added risk of pregnancy when taking the placebo portion of her birth control pills. I have also never heard of anyone referring to them as "vitamins". I am aware of one manufacturer that adds iron to the placebo, but these pills are brown in color, not green.

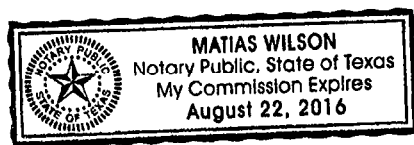
Further affiant sayeth naught.

  
Merrill Sue Lewen, M.D.

Sworn to before me this 10 day of February 2015



Notary Public



# Exhibit 12

**BASTROP POLICE DEPARTMENT  
SUPPLEMENTAL REPORT**

BPD Case No. 96040339  
Capital Murder (PC 19.03) Capital Felony  
Victim: STITES, Stacey

Page -2-  
Interview with Jimmy Fennell (Continued)

When asked if he knew the exact time that Stacey left for work today, Jimmy said he did not. Sometimes when she leaves, he will wake up, but he does not remember her leaving this morning. I asked if she would stop at a convenient store or service station to get something to eat or drink on her way to work and again he said that she was too paranoid to do even that. Her typical routine was to get a glass of water from the kitchen before leaving for work and taking it with her. That way she did not have to make any stops on the way.

I asked about her stopping for gas on the way to work and Jimmy said that he always gasped up the truck the night before, because here again, she was too afraid to even stop for gas. He had, in fact, just filled the gas tank last evening and the truck should have a full tank of gas in it. It was later determined that Jimmy had not filled the truck up the previous night, but another night. He corrected this with Sheriff's Department Investigators during a later interview.

Asked about how he knew that Stacey had not shown up for work this morning, Jimmy said that he got a call from Stacey's mother this morning telling him that the store (HEB) had called her asking why Stacey was late for work. Stacey's mother called Jimmy and Jimmy checked the apartment and Stacey was not there. The light was on in the kitchen and he believes she took a glass of water to work with her, thus the reason for the light being on. When Jimmy told Stacey's mother that she was not home, her mother reported her missing to the police.

Note: Jimmy is currently a police officer for the Giddings Police Department and before that was employed at the Bastrop County Sheriff's Department.

The interview was terminated at 9:55 AM and Jimmy left the Police Department with Investigator Ed Salmela to view the victim's truck to see if anything was missing or out of place. We were looking for clues as to what may have happened to Stacey. The truck had been secured at BASCO Wrecker Service on Chestnut St. (see Investigator Ed Salmela's supplemental report concerning the recovery of victim's truck). Jimmy had a key to the truck and the key was used by Salmela to open the doors, so a visual inspection could be made of the interior by Jimmy. (It had already been decided that the truck would be taken to the DPS lab for processing).

After Jimmy returned to the police department with Salmela, I questioned him about the truck. He said that Stacey had her own key to the truck, as well as a key to their apartment and her mother's apartment. They were on an elongated type key ring that had a quick disconnect, instead of a round key ring. The keys have not been located in the truck at this time because the truck has been preserved for processing. Investigator Salmela opened the center console and Jimmy said that his checkbook should have been inside, but that he did not see it. (I told Jimmy that upon his return to Giddings, he needed to contact the bank and have his checking account flagged in the event that someone may attempt to cash some of the checks from his checkbook).

(Continued on page -3-)

000477

Report Made By: R.V. Duncan (850)

CONTINUATION

DATE: 11-27-96

PAGE: 17

<p>FILE TITLE</p> <p>CAPITAL MURDER - FC</p> <p>BASTROP COUNTY - 011</p> <p>STACEY STITES, W/F</p> <p>04-23-96</p>	<table border="1"> <tr> <td data-bbox="771 170 1039 241"> <p>FILE NO.</p> <p>RHQ96025</p> </td> <td data-bbox="1039 170 1209 241"> <p>TYPE</p> <p>C</p> </td> <td data-bbox="1209 170 1463 241"> <p>PROGRAM CODE</p> <p>CRIMINAL</p> </td> </tr> <tr> <td colspan="3" data-bbox="771 241 1463 304"> <p>ACTIVE <u>X</u> INACTIVE <u>  </u> CLOSED <u>  </u> RESTRICT <u>  </u></p> </td> </tr> <tr> <td colspan="3" data-bbox="771 304 1463 390"> <p>BY: L. R. WARDLOW, SGT.</p> </td> </tr> </table>	<p>FILE NO.</p> <p>RHQ96025</p>	<p>TYPE</p> <p>C</p>	<p>PROGRAM CODE</p> <p>CRIMINAL</p>	<p>ACTIVE <u>X</u> INACTIVE <u>  </u> CLOSED <u>  </u> RESTRICT <u>  </u></p>			<p>BY: L. R. WARDLOW, SGT.</p>		
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<p>ACTIVE <u>X</u> INACTIVE <u>  </u> CLOSED <u>  </u> RESTRICT <u>  </u></p>										
<p>BY: L. R. WARDLOW, SGT.</p>										

74. Information was developed which indicated a w/m described as being in his 50's with graying hair had been sleeping in an older model brown van in the HEB parking lot every night for the last few months. Investigators identified the individual as Dillon Kirk GRUBB, a w/m, DOB 01-21-38. KIRK lists a home address as Rt 1 box 171 K Elgin, Texas. KIRK drives a brown 1983 Dodge van with Texas LP FRW-04L. KIRK was unable to provide additional information.

75. On 4/25/96, writer along with investigators CAMPOS and BARTON interviewed the fiancée of the victim, Jimmy FENNELL. FENNELL is a police officer for the city of Giddings and was formerly employed by the Bastrop County Sheriff Department as a jailer. The following is a synopsis of that interview:

FENNELL met Stacey STITES in April 1995 at the Smithville Jamboree. STITES was a senior at Smithville High School. FENNELL was employed by the BCSO as a jailer. In late May or early June they began dating. STITES graduated and shortly afterward, STITES and her mother moved to Bastrop. STITES took employment with Covert Chevrolet as a porter. After a few months, STITES left Covert and went to work for HEB. FENNELL moved in with STITES at about the same time. In December of 1995, FENNELL moved to Giddings and took employment with the police department. STITES moved in with FENNELL and continued to work for HEB. On the night of 4-22-96, FENNELL advised he parked the pickup which is owned by him and driven to and from work by STITES. The pickup had approximately 1/4 tank of gas. This vehicle is the only vehicle owned by FENNELL. STITES does not have a vehicle, but will occasionally drive her mother's car, described as a gray Ford Tempo. STITES and FENNELL showered together. STITES went to sleep about 8:30 PM. FENNELL watched TV until shortly after 9:00 PM, then went to bed. According to FENNELL, he and STITES have not had sex since the night of Saturday 4-20-96. FENNELL was awakened the morning of the 23rd by STITES mother who was calling to see if she had left for work. FENNELL borrowed her car and began driving toward Bastrop to see if she had car trouble. FENNELL was aware that STITES had a child from an early pregnancy which had been given up for adoption. The father was unknown to FENNELL. FENNELL named as ex boyfriends of STITES; "John", a former employee of Covert; "Jerry", a married man who used to work at WalMart; and "Jeremiah" a boyfriend from high school.

76. Writer reviewed the monthly organizer belonging to STITES which had been found in the vehicle. The following names appeared in the address section which were unknown to FENNELL:



# Exhibit 13

TEXAS DEPARTMENT OF PUBLIC SAFETY  
TEXAS RANGER DIVISION

VOLUNTARY STATEMENT (NOT UNDER ARREST)

THE STATE OF TEXAS

COUNTY OF NUECES

Before me the undersigned authority in and for said County and State, on this day, Wednesday, March 05, 1997, personally appeared, CAROL JEAN STITES, address is 2514 ASHLOCK ST CORPUS CHRISTI, TEXAS 78418, phone number is 512-937-3265, who, after being by me duly sworn, deposes and says:

My name is Carol Stites, I am 55 years of age. My date of birth is 12-27-41. I am the mother of Stacey Stites. On Monday 4/22/96, I was in my apartment at the Rolling Oaks Apartment in Giddings. I think it was apartment 503. I lived in the apartment below and to the right of Stacey. She lived upstairs with her fiancée, Jimmy Fennell.

Stacey had first seen Jimmy at the Smithville Jamboree. Stacey and I were living in Smithville at the time. Stacey and Jimmy began dating steady about the time she graduated from Smithville High School. Stacey and I moved to Bastrop just before she graduated. We lived at 420 Vista West at that time in a duplex. Jimmy and Fletcher helped us move in. They were both working at the sheriff office in Bastrop. Jimmy was in cadet school. Stacey was working at Covert Chevrolet at this time. Before that, she had worked at Owl's western wear in Bastrop for about a week. Prior to all this when we lived in Smithville, Stacey worked at Brookshire Brothers grocery there in Smithville.

Stacey and Jimmy became very close while we were in Bastrop. Jimmy moved in with us in October. Jimmy got a job in Giddings as a police officer. In December, Jimmy got an apartment in Giddings. Jimmy asked her to marry him but he was talked out of it by his mother. Stacey and I moved into the same apartment complex the first of January 1996. Jimmy gave Stacey a ring and she moved in with him in February. They were planning a March wedding, but his mother talked him out of that so they were planning a wedding on May 11, 1996.

On Monday 4-22-96, I was at my apartment when Stacey came in from work at about 1:30. She was driving Jimmy's truck. Jimmy was at work. Stacey came directly into my apartment and we talked for a few minutes. Stacey left and went upstairs to change out of her work clothes. She was wearing her blue pants and white shirt. I'm thinking she had the red work shirt in her hand. She wasn't gone very long, just long enough to change, and then she came back downstairs. Stacey fixed herself a meatloaf sandwich and ate. She wrapped up in a throw I had and laid down on the couch and went to sleep.

About 2:30, Jimmy came in from work. He came to the front door and I woke Stacey up and told him he was there. Jimmy came in and Stacey told him he would have to fix his own meal. They kinda laughed at each other, and Jimmy fixed a sandwich. I was taking care of Jennifer Dale, she is the 5 year old daughter of Janice Dale. Stacey and Jimmy played with her and watched TV with me until about 4:30.

Jimmy got ready to go upstairs to change clothes for baseball practice. Jimmy took my car keys out of his pants pocket and laid them on the entertainment center. To my knowledge there is only two sets of keys to my car. One set is on my keyring and the other set was used by Stacey or Jimmy. The second set is not on anybody's keyring, and I have them now.

COPY

Jimmy was still wearing his uniform at the time. Jimmy said he was going to take Stacey to work the next morning because he wanted his truck. He said he was scheduled for court and needed his truck, that he didn't want to drive my car. Jimmy was supposed to go with Stacey when she got off to get insurance on her so she could drive his truck. Stacey and I both got on him because it was stupid for him to get up, drive her to work, drive back home, then drive back to Bastrop to pick her up. Jimmy just walked out of the apartment and Stacey said she would talk to me later and she left to go upstairs. I was under the impression that Jimmy was taking Stacey to work the next morning.

Jimmy left just before 5:30 or so to go to baseball practice. He coached a little league team with David Hall, another Giddings police officer. I don't think David went that day because it seemed like something came up. I'm not sure whether David went or not. He may have ridden with Jimmy, I just know Jimmy left in his truck.

David Hall lived in a trailer behind the apartments with his wife Carla. They had 3 kids. From what Stacey and Jim told me, I believe David and Carla were having marital problems. Stacey and Jimmy used to go over to the Hall's and visit, but not a great deal.

Stacey came back down to my apartment about 7:30. I was crying and Stacey asked me what was wrong. I told her I was stressed out over the wedding, that things weren't going the way we thought they were. I told Stacey she should think twice about this marriage. I told her she needed to really make up her mind about whether she wanted a mother in law messing in her business. Jimmy's mother wouldn't call me about anything, she would go through Jimmy which was creating problems between Jimmy and Stacey. Stacey told me she loved both me and Jimmy and I was just going to have to learn how to get along with Jimmy; mm?

I saw Jimmy through the window walking around the end of the building. Stacey asked me if I had seen Jimmy and I told her yeah, that he had just walked around the end of the building. I assumed he was going to David's because that's the direction he was going. Stacey went out the apartment and around the end of the building where he had gone. Stacey came back running and was laughing like she had pulled something on him. He was chasing her, and he was laughing. They ran upstairs. It was probably a little after 8 o'clock. That was the last time I saw her.

I stayed in my apartment the entire evening and watched TV. I stayed up until about 1:30 AM Tuesday morning. I never heard anything unusual. I drifted off to sleep one time, for about 30 minutes. I got up and went to bed. I woke up out of a sleep about 5:15 that morning. I had the feeling somebody was telling me I had done a good job of raising Stacey. I remember thinking my job wasn't over yet.

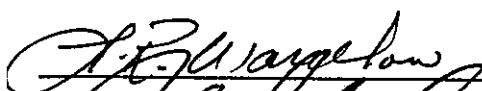
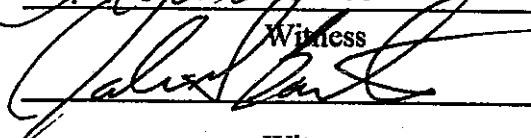
I don't remember anything else until the phone rang and they told me Stacey wasn't at work. I looked outside and saw the truck wasn't there. I told them the truck was gone, so I would call Jim. I hung up the phone and called Jimmy. I said Stacey didn't make it to HEB. He said OK. I don't remember what he may have said. He didn't question me about it. I called the Police Department in Bastrop and the HEB. I told HEB Jimmy was going to look for Stacey.

I went outside and Jimmy was coming downstairs. He had his jeans and shoes on and was putting on his T shirt. I had picked up the keys to my car where he had left them the day before. I had them in my hand when he came down the stairs. I gave him the keys, because I knew the truck was gone. He said he had talked to Bastrop and was going to meet someone at the county line to backtrack to Bastrop.

I waited in my apartment and Janice Dale showed up to drop off Jennifer. When she found out Stacey was missing, she decided to stay. Janice made some calls. We called the police several times to see if anybody knew anything.

Sometime after 9 AM Jimmy returned. He said they hadn't found anything and he was going up to Giddings PD. Jimmy left and wasn't gone very long before I was called and they said they found the truck. They said it was locked and they needed the keys. They needed Jimmy to bring a set of keys. I called Giddings PD and talked to the dispatcher. She said Jimmy knew the truck had been found and he was on his way over there.

Jimmy came back but I don't remember the time. Jimmy's Mom and Dad showed sometime after lunch. I know Jimmy was there when they showed up.

  
\_\_\_\_\_  
Witness  
  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Signature

Date: 03/05/97 Time: 8:03 PM

①

~~Monday~~, Sunday, April 24, 1996

Tim Jones  
while I was  
sitting down  
on Monday

Got up went to church, Came home  
and Stacey <sup>Came</sup> home. Tim, Stacey and  
I talked about lunch.

April 16, 1996

to tell him  
whatever he  
was doing

Tim called about twelve. He  
started out wanting to know how  
everyone was doing. He said he was going  
to see about a job in Georgetown.  
He didn't like the way people were  
talking around Washington and that  
the women at the FBI during the  
dispatching was giving them the  
officers a hard time. I said that  
the chief was backing them up and that  
one officer had already left and if he <sup>Tim</sup>  
left, he was taking two officers with  
him Jeff & Jay. He wanted to know if  
Crystal's P.I. had come up with any  
more information. I told him that  
he had still been looking for Wayne.  
Then he wanted to know if the sheriff's  
office had anymore information. I told  
him, he knew about as much as I did.  
(I didn't tell him about us going up tomorrow)  
I told him to call the sheriff's office and

ask them if he wanted to know anything, Told him I call all the time and they talk to me. He said he was going over later this week and talk to them.

Told him I had a picture of him and Stacey 8x10 - Told him about another picture and he said he didn't want one.

He asked about <sup>if</sup> Hershel going over seas. Said he would start days & would be off on weekends in October. Told him about Kids + Shrimporama.

Told him several times to call during shiriffs if he wanted information. <sup>(confer)</sup> he said Curtis had asked if he could come ride around with him while on patrol in Bastrop. Didn't think they were still investigating him if they said he could come ride around.

Talked about his mom + dad maybe getting new jobs. Crystal his sister graduating in Feb. He said if he hears anything he'd call or call in a couple of weeks.

I told him if they were investigating him, <sup>I wish</sup> they would either clear him or charge him. <sup>(if any of us wished each other well & leave him the hell alone)</sup> and hung up

Sunday April 21, 1996

Got up, went to church, come home. Stacey comes home from work, she goes to change clothes at Jim's. They come down and we discuss eating. I go get Hamburger, potatoes & stuff for dinner. Stacey and Jim watch TV while I cook. I fix meat loaf, gravy, potatoes, green beans and T. I get meal fixed, it's about five. We eat watch TV and about six-thirty Jim gets up and goes up stairs. No good night-see you or Thanks for supper. Stacey follows after she tells me thanks and she loves me. For some reason, loneliness or stress, ect. I get upset because of Jim's manners. I call up Stacey and Stacey answers - About meal stream I change my mind about talking to Jim. I tell Stacey that I was upset because Jim didn't thank me for supper and how her dad always said Thank you regardless of the meal. She tells me Jim was raised differently and didn't do things the way we did. I tell her not to say anything and I hang up. I'm still upset and get depressed over how things are going.

Monday, 22, 1995

Stacey and Jim both at work.  
Jennifer and I stay at apartment.  
Stacey comes home, changes clothes,  
and takes a nap because she says  
she's tired. Stacey gets up and eats  
leftovers and after awhile Jim  
comes home. He comes in and Stacey  
says he has to eat leftovers because  
I wasn't going to cook. They exchange  
glances and each laugh and I knew  
she had told him about what was  
said. I get depressed <sup>start crying</sup> again. Jim eats  
a meat loaf sandwich and <sup>then</sup> they play  
with Jennifer. Jennifer had a book of kids  
Bible songs and Stacey sat for over an  
hour singing, reading and telling stories  
of her days in church, bible school &  
church camp. Janice picks up Jennifer  
Jim goes to ball practice & Stacey goes up  
stairs to lay down. About eight-thirty <sup>she</sup> <sup>came</sup>  
back down and asked me what's upsetting  
me so bad. I told her I thought it was  
the wedding and Jim's mom trying  
to change things around. She told me  
"You think you have stress, you don't  
know what stress is." I told her she

back page  
of page

Jim  
comes  
home  
but  
not  
telling  
me  
he's  
gone  
to  
ball  
practice  
building



Stacey and Jim were discussing going to get insurance on Tuesday after she got off work. Jim said he would get up and take Stacey to work and then he would have the truck to go to court that morning. Stacey and I both told him that why didn't he just let Stacey take the truck and he could use my car to go to court and then that afternoon I would take him and drop him off at HEB. He was determined to do it his way and take her. Remembering Sunday night I got upset and started to cry but was holding back till Jim got out the door. Stacey said she was tired and she was going to lay down for a while. She went up stairs but came down later and asked me what was wrong and why I was so upset -

5

needed to be careful. If she let her, Jim's mother would be calling the shots when Jim and her were married. I told her if she was going to back out of getting married this was the time to do it before she got married and not after. She told me that she loved Jim and she loved me. That I was going to have to learn to get along with him. She ask me if I had seen Jim and I told her that he had gone around the building probably to get mail. She told me she loved me and I told her I knew she did. She went to look for Jim and a couple of minutes later she came running around the building. She was laughing as she went up the stairs two at a time. Jim was right ~~by~~ behind her. He was laughing and he was up the steps. That was the last time I saw it was alive. After they went up stairs, I stayed downstairs, lonely in a dark mood. and a great stupid with me. I watched TV till late and just went

on the couch. about two-two thirty  
went to bed.

Tuesday morning the 23<sup>rd</sup> I woke up  
at 5:15 AM crying. My thoughts were that  
I had done the best I could getting  
Stacey raised, threw school and to be  
married to Jim and my job was done.  
My thoughts I believe was Stacey  
telling me Good-bye.

H E B called (I tried to find my phone  
bill to verify time, but its been misplaced  
in the move) 6:47 I think. I usually  
got up at 6:30 because of Jennifer but for  
some reason didn't turn the alarm on  
the night before and Jennifer was  
late that morning. I called Jim + asked him  
if Stacey was there. <sup>He said NO. I told him</sup> Stacey wasn't at  
work. I told him she must be broken  
down and waiting for us to find her. He  
said he'd go look. I called H E B back.  
I hung the phone up and by the time  
I got to the front door he was coming  
out his door pulling on a tee shirt  
of Stacey's. He said he had called the  
sheriff's office and someone was waiting  
for him at the county jail. I handed him  
Stacey's set of keys to my car. I took the

H E B  
called &  
asked  
why  
Stacey  
wasn't  
at work.  
I said she  
was and  
went to  
window  
and saw  
the truck  
was gone.  
I told him  
I'd call  
him back.  
He said  
he'd call  
me back.

000120!

⑦

my entertainment where he had laid them the day before. He left and was gone till around ten I think. The morning was long and things are not clear anymore. I remember people started showing up church members, officers, ect. That afternoon some officers showed up and they told the people that were standing out and I walked out and Curtis told me they had found Stacey and she was not alive -

000121

# Exhibit 14

BPD Case No. 96040339

Capital Murder (PC 19.03) Capital Felony

Victim: STITES, Stacey

Page 1 of 1

04-30-96 / 1:00 PM

I contacted First Interstate Bank of Giddings (409/542-3136) regarding Jimmy Fennell's checking account. His checkbook was apparently taken from his truck, possibly by the suspect. I was told that Jimmy closed out his account the morning that his fiance disappeared. (I told him earlier that day to contact his bank about the missing checkbook from the truck). I then obtained information concerning this checking account so that a notice could be issued to the Bastrop Banks, in the event that someone might attempt to use one of the stolen checks.

The missing checks are drawn on the above bank, in the name of Jimmy Lewis Fennell Jr., account # 4060159607.

I then hand-delivered a letter to all four banks in Bastrop concerning the missing checks (See attached letter).

**DISPOSITION:** Investigation Continues.

000481

Report Made By: R.V. Duncan (850)



**First Interstate Bank**  
 JIMMY LEHIS FENNELL JR  
 ROLLING OAKS 502  
 GIDDINGS TX 78942-0000

First Interstate Bank of Texas, N.A.  
 P.O. Box 3326  
 Houston TX 77253-3326

\*FRAME N 15\*

Page 1 of 3 30 R00  
 Account no. 4060159607

Questions about your account?

Call our  
 Day & Night Banking Center  
 at (800) 338-1023

Write:  
 Giddings Office  
 P.O. Box 3326  
 Houston TX 77253-3326

**Regular Checking**

March 26 - April 23, 1996

**For your Information**

THE MERGER WITH HELLS FARGO HAS JUST BECOME EFFECTIVE. WE BELIEVE THAT BY COMBINING THE STRENGTHS OF BOTH BANKS, WE CAN PROVIDE YOU WITH THE BEST BANKING SERVICES ANYWHERE IN THE NATION. YOU'LL BE HEARING MORE IN THE MONTHS AHEAD. WE PROMISE UNINTERRUPTED SERVICE - SIMPLY BANK AS USUAL. WELCOME TO HELLS FARGO.

**Account Activity**

Account number 4060159607

JIMMY LEHIS FENNELL JR

Beginning Balance	\$ 390.45
Additions (+)	
03/29/96 BRANCH DEPOSIT	534.54
04/10/96 BRANCH DEPOSIT	398.00
04/15/96 BRANCH DEPOSIT	524.54

Subtractions (-)	
ATM AND FIRST INTERSTATE CARD SUBTRACTIONS (SEE DETAILS FOLLOWING)	80.00
04/23/96 CLOSE ACCOUNT	484.44
30 CHECKS PAID (SEE DETAILS FOLLOWING)	1,283.09
Ending Balance	\$ 0.00

TRACE ID

April 23, 1996

001049

# Exhibit 15



CRIMINAL LAW ENFORCEMENT  
POLYGRAPH SERVICE

MODIFIED GENERAL QUESTION TEST

DATE:

EXAMINER:

EXAMINEE:

TIMMY FENNELL

1. IS YOUR FIRST NAME TIMMY FENNELL ? YES NO
2. IS TODAY Thursday ? YES NO
- R3. Did you have a son of MARY LO  
CAROL'S son ? YES NO
4. ARE YOU NOW 23 YEARS OF AGE? YES NO
- R5. Did you STANLEY STAY STILES on 4/23/96  
? YES NO
- C6. As a child did you ever know  
anyone ? YES NO
7. IS YOUR LAST NAME FENNELL ? YES NO
- R8. On 4/23/96 did you have any sexual  
contact with STANLEY STILES ? YES NO
- R9. Did you know what happened to  
STANLEY before 8am on 4/23/96 ? YES NO
- C10. Did you ever lie on an official  
report. ? YES NO

MIXED SERIES: 4-1-9-6-2-3-10-5-6-8-10

EXTRA CONTROL: 6A.

? YES NO

- 1A. DO YOU LIVE IN THE STATE OF TEXAS? YES NO
- 1B. IS THIS THE MONTH OF \_\_\_\_\_? YES NO

NOTES:

CLE/po-9

000182

Bastrop County Sheriffs Office  
Attn. John Barton

On 3 October 1996 a  
Polygraph test was administered  
to Jimmy Fennell JR. in regards  
to the murder of STACY STILES  
which is alleged to have  
occurred on 23 April 1996, as  
to his knowledge or participation  
in this offence.

Prior to being tested  
the subject made the  
following admissions.

He claims after they had  
talked STACY went to bed first  
and was asleep by the time  
he went to bed around 10 p.m.

He claims he was awakened  
by Carol at 6:30 or 7, he is  
not sure of the time but it  
was already day light on 4/23/96.  
She told him STACY had not  
shown up at work and she  
was always very punctual. He  
had Carol report STACY missing,

000190

and he borrowed Condo's keys as Stacy had taken his vehicle. He states he had no set of keys to Condo's vehicle other than those loaned to him by Condo.

He took Condo's car down 280 to 21 and on to Bastrop to see if she had a wreck.

After going to H.E.B. he back tracked to Giddings.

He stopped to talk with Condo then went to Giddings P.D.

He claims that to his knowledge Stacy was not seeing anyone else as she did not have time. He claims he is not a jealous individual and that they had argued but had no physical fights.

He states he had nothing to do with causing her death, and that he loved her and they had a good relationship.

He states once the body had been found he had been in touch with investigators as to the progress on the case.

He claims he had no repeat contact with Stacy on 4/23/86 or the previous night as it was that time on the

The following relevant questions were used during the examination.

# R3 Did you have a set of keys to Carol's car? Answer NO

# R5 Did you strangle STacy STITES on 4/23/96? Answer NO

# R8 On 4/23/96 did you have any sexual contact with STacy STITES Answer NO.

# R9 Did you know what happened to STacy before 8am on 4/23/96? Answer NO.

Upon completion of the second chart the subject was questioned in regards to responses which were present on questions # R5 and R8 as to an explanation for these responses.

000192

He claims when asked questions # R5 he could see STacy lying in her basket. He offered no other explanation.

After conducting a 3rd  
chart It is the opinion  
of the examiner based  
on the polygrams that  
deception is indicated on  
the following question

# R 5 Did you strangle  
STACY STIVERS on 4/23/96 ANSWER NO

# R 8 On 4/23/96 did you have  
any sexual contact with  
STACY STIVERS? ANSWER NO

Respectfully Submitted

J. L. Burch  
PAT J COACHES  
STATE LICENSE # 386

TEXAS DEPARTMENT OF PUBLIC SAFETY  
CRIMINAL LAW ENFORCEMENT  
POLYGRAPH SERVICE

POLYGRAPH REPORT (DI)

OFFENSE: Murder

CASE # PH596009

EXAMINER: Lt. Gordon W. Moore

DATE OF OFFENSE: 04-23-96

VICTIM: Stacy Stites

DEPARTMENT REQUESTING EXAMINATION: Texas Ranger / County S.O.

COUNTY: Bastrop

SUBMITTING OFFICIALS: Sgt. R. Wardlow / Chief Deputy D. Campos

POLYGRAPH SUBJECT: Jimmy Lewis Fennell Jr. RACE: W SEX: M

D.O.B.: 12-25-72 P.O.B.: Hale Center Tx STATUS: S

PREVIOUS POLYGRAPH EXAM: (Yes) IF SO REASON: 1X Same Case

PREVIOUS ARRESTS, CONVICTIONS, ETC: None stated

CASE BRIEF: On April 23, 1996, the victim was reported missing after she did not arrive at work in Bastrop, Texas. She was subsequently found in Bastrop County Texas murdered. Her body was discovered along side a county road in the brush. The vehicle that she was traveling in was discovered in the city limits of Bastrop, Texas. The subject was engaged to be married to the victim at the time of her death. At this time, he is the last known person to have seen the victim alive. The submitting officials would like to determine if the subject has participated in manner in this criminal offense. The subject emphatically denies any participation in the aforementioned. A polygraph examination is to be constructed and administered to determine the subject's truthfulness.

POLYGRAPH SUBJECT IS: (Subject)

PLACE OF EXAMINATION: D.P.S. Headquarter, Austin, Texas

DATE ADMINISTERED: December 18, 1996

RESULTS: Deception Indicated

D. P. S. SENSITIVE

Article 4413 (29cc) VTCS disclosure of any information contained in this report, except as provided by law. This report and file are subject to review by quality control.

000080

page two: Case # PH596009 Fennell, Jimmy L.

**BRIEF SUMMARY RESULTS:**

Utilizing case information furnished by the submitting official a polygraph examination was constructed and administered. Evaluation of this subject's polygrams did reveal to this examiner significant criteria that would indicate deception at questions pertaining to knowledge of and/or participation in this offense. Subsequent to the polygraph examination, after deception was indicated, the subject requested to talk with an attorney. At this time the interview was promptly terminated.

CLE/po-16

Jan 12-19-96 lt. gwm

**D. P. S. SENSITIVE**

Article 4413 (29cc) VTCS forbids disclosure of any information contained in this report, except as provided by law. This report and file are subject to review by quality control.

000081

*Jim* The following relevant questions were asked to Jimmy Lewis Fannell Jr. on December 18, 1996:

1. Anytime after April 22, 1996, did you penetrate Stacy's anus with anything?

Response: No

2. Did you strangle Stacy with her belt?

Response: No

3. Did you leave Stacy's body along that county road where she was found?

Response: No

4. Anytime after April 22, 1996, did you hit Stacy's head with your fist?

Response: No

Examiner's Professional Opinion: Deception Indicated

**D. P. S. SENSITIVE**

Article 4413 (29cc) VTCS disclosure of any information contained in this report, except as provided by law. This report and file are subject to review by quality control.

000082



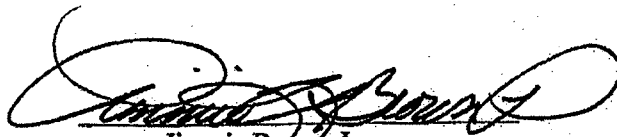
# Exhibit 16

STATE OF TEXAS     )  
                              )  
COUNTY OF HARRIS )

AFFIDAVIT OF JIMMIE L.J. BROWN, Jr., ESQ.

1. My name is Jimmie L. J. Brown, Jr. I am over the age of 18 and fully competent to give this statement.
  2. I received a Juris Doctor from Texas Southern University in 1984 and was admitted to the Texas Bar in November 1984.
  3. My law office is currently located at 3102 Cherry Creek Drive, Missouri City, TX 77459. I primarily practice in Fort Bend and Harris Counties, Texas.
  4. I was retained by the parents of Rodney Reed to represent him in the capital murder case that was filed against him in Bastrop County in 1997.
  5. In the summer of 1997, as part of my investigation of the case, I went to the Bastrop HEB where the victim, Stacey Stites, worked in the months before her death. I spoke with several of Ms. Stites' co-workers, some of whom said that they were aware of a romantic relationship between Ms. Stites and Mr. Reed having witnessed the close relationship between them. I wrote down the names of the employees I spoke with and took notes memorializing these conversations. I placed these notes in the file I maintained on Mr. Reed's case.
  6. I returned to the Bastrop HEB several weeks later to speak again with Ms. Stites' co-workers. On this visit, Ms. Stites' co-workers were unwilling to speak with me about Ms. Stites, Mr. Reed, or their relationship. I suspected that someone, most probably the Bastrop City Police, had exerted pressure on them and told them not to cooperate with me or provide any information that could be helpful to Mr. Reed and his defense in this case.
  7. Around this same time, I noticed that I was being followed by a police car every time I came to and left Bastrop, such that I would restrict my evening travels.
  8. I ceased representing Mr. Reed in the Fall of 1997 because Mr. Reed's family could not afford to pay the attorney's fees and expenses that would be required to mount a defense to the capital murder charges. At this time, I gave my file, bound and sealed, containing the only copy of my notes on my conversation with the HEB employees to Mr. Calvin Garvie, the then attorney who took over representation of Mr. Reed
-

Further affiant sayeth naught.

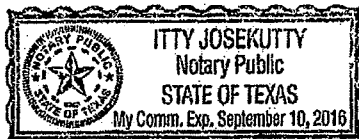


Jimmie Brown, Jr.

Sworn to before me on this 12 day of February 2015



Notary Public



# Exhibit 17

No. 19-411

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**In the Supreme Court of the United States**

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RODNEY REED,

*Petitioner,*

v.

TEXAS,

*Respondent.*

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**On Petition for Writ of Certiorari to the  
Court of Criminal Appeals of Texas**

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**BRIEF OF DEKE PIERCE AND OTHER CURRENT  
AND FORMER TEXAS LAW ENFORCEMENT  
OFFICERS AS *AMICI CURIAE* IN SUPPORT OF  
PETITIONER**

---

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October 28, 2019

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**INTEREST OF AMICI<sup>1</sup>**

Amici are thirteen current and former Texas law enforcement officers with over 250 years of combined experience.<sup>2</sup> They include police officers with local sheriffs' and constables' offices, a police department chief, corrections officers, an evidence specialist, and a major crimes detective.

Each of the amici cares deeply about the criminal justice system and the rule of law. While that often means holding wrongdoers accountable, an equally important goal of the justice system is to avoid punishing the innocent. "[I]nvestigations *must* inculcate and *exculpate*." (E-mail from Amicus William Evans.) Wrongful convictions, and *a fortiori* wrongful executions, are not only unjust; they also undermine the legitimacy of our laws and the public trust therein. In the words of one Amicus: "if all evidence is not re-

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<sup>1</sup> Pursuant to Supreme Court Rule 37.6, *amici curiae* ("Amici") affirm that no counsel for a party authored this brief in whole or in part, and no person other than Amici and their counsel has made a monetary contribution to the preparation or submission of this brief. Pursuant to Supreme Court Rule 37.2, counsel of record for all parties received notice at least 10 days prior to the due date of the intention of Amici to file this brief. All parties consented to the filing of the brief.

<sup>2</sup> Amici submit this brief only in their capacities as private citizens. To the extent an Amicus's employer is named, it is solely for descriptive purposes and does not constitute the employer's endorsement of the brief or any portion of its content.

viewed and/or tested, and the wrong person is executed[,] it ... tarnishes the image of [the] System whose laws [we] swore to uphold.” (E-mail from Amicus Jessie Tippie (typo corrected).)

Many of the Amici do not oppose the imposition of the death penalty in appropriate cases. But all agree with this Court’s longstanding view that the “qualitative difference between death and other penalties calls for a greater degree of reliability when the death sentence is imposed.” *Lockett v. Ohio*, 438 U.S. 586, 604 (1978).

Amici also believe that for the reasons explained in Petitioner’s brief, such reliability is lacking in this case. There are serious “questions as to whether all pertinent and critical evidence was introduced during Mr. Reed’s trial.” (E-mail from Amicus Manuel Mancias (typo corrected).) Justice requires that “the evidence of this case in particular needs to be reheard before a man is executed.” (E-mail from Amicus Jordan Murray.) Failing to do so would be a “travesty” of justice. (E-mail from Amicus Mike McGann.)

## SUMMARY OF ARGUMENT

Death—the harshest sentence meted out by any judicial system—is both uniquely severe and uniquely irrevocable. *Furman v. Georgia*, 408 U.S. 238, 306 (1972) (Stewart, J., concurring); *accord, e.g., Woodson*

*v. North Carolina*, 428 U.S. 280, 305 (1976) (plurality opinion). For those reasons, this Court has insisted time and time again that capital trials meet a heightened level of reliability. *E.g.*, *Lockett v. Ohio*, 438 U.S. 586, 604, (1978); *Gardner v. Florida*, 430 U.S. 349, 359 (1977).

Mr. Reed’s conviction lacks that necessary reliability. The record in this case, including significant new evidence potentially exonerating Mr. Reed and implicating a different suspect, raises serious doubts about Mr. Reed’s guilt. For that reason, Amici respectfully urge the Court to ensure that Mr. Reed’s case gets a thorough second look before he is executed.

This brief is intended to explain why, from a law enforcement perspective, such review is critical on the facts of this case. First, the criminal justice system has a strong interest not only in punishing the guilty but also in *not* punishing the innocent. Executing an innocent person is “[t]he quintessential miscarriage of justice.” *Schlup v. Delo*, 513 U.S. 298, 324-25 (1995). Not only would doing so be cruel and immoral, it would also undermine the rule of law and the legitimacy of the very system Amici have sworn to uphold.

Second, Amici know that under the wrong conditions even good investigators and prosecutors can make mistakes. A case that is objectively weak can appear much stronger to those in the middle of it. As law

enforcement officers, Amici are familiar with the phenomena of forensic error, weak facts, tunnel vision, and community pressure that can distort an investigation. There is a significant, atypical risk that these factors tainted the outcome of Mr. Reed's trial.

Third, this brief explains from Amici's perspective why the evidence of Mr. Reed's innocence—and Mr. Fennell's guilt—is so uniquely compelling that granting Mr. Reed's Petition, and reversing the judgment below, would not open the floodgates to meritless appeals and *habeas* petitions. Amici understand as well as anyone the need for finality in criminal cases. But where, as here, there is a significant risk of executing an innocent man, that need for finality must yield to the needs of justice.

## ARGUMENT

### I. AMICI BELIEVE THAT WRONGFUL EXECUTIONS UNDERMINE THE RULE OF LAW

#### A. About The Amici

Lead Amicus Deke Pierce is a sixth-generation Texan and has been a Texas Peace Officer since 1992—including since 1994 in Central Texas, near where the Reed investigation took place. Mr. Pierce currently serves as Deputy Constable for Williamson County Precinct 1 Constable's Office, a position he has held since 2017. For 22 years prior, Mr. Pierce served as a Deputy Sheriff and Traffic Investigator for the

Travis County Sheriff's Office. Mr. Pierce is also a veteran of the U.S. Air Force, serving as an Avionics System Specialist at Moody Air Force Base in Valdosta, Georgia.

Mr. Pierce holds a Texas Master Peace Officer's certification, based on over 3000 hours of training, and has received the Academic Recognition Award from the Texas Commission on Law Enforcement. Mr. Pierce is or has been a member of the Sheriff's Association of Texas, Texas Municipal Police Association, Texas Search and Rescue Board and Advisory Board, Association of Certified Fraud Examiners, and Williamson County Deputies Association. He has also been a law enforcement shift commander and volunteer for Rodeo Austin, director of the Sheriff's Memorial & Benevolent Society of Travis County, and a member of American Legion Kerlin/Lyerly Post 154.

Mr. Pierce's interest in Mr. Reed's case stems from his 2015 introduction to Anthony Graves, who was wrongfully convicted of murdering six people in Somerville, Texas, in 1992, only to be released in 2010 after 18 years of incarceration. Through his association with Mr. Graves, Mr. Pierce ultimately met Mr. Reed's mother Sandra and brother Rodrick, who introduced Mr. Pierce to the facts of Mr. Reed's arrest and conviction. Mr. Pierce's subsequent investigations into Mr. Reed's case—including Mr. Pierce's ongoing conversations with other current and former Texas peace officers (see below)—have led Mr. Pierce to the inescapable conclusion that justice would not be done were Mr. Reed to be executed based on the current record.

The other current and former Texas law enforcement officers who stand with Mr. Pierce in seeking to ensure that Mr. Reed's case receives the thorough review it deserves are:

- **Tip Birdwell:** Mr. Birdwell served in Texas law enforcement from 1978 to 2018, including positions with Travis County Sheriff's Office, Travis County Constable's Office Precinct 4, Austin Park Rangers, and Austin Independent School District. Mr. Birdwell is also a veteran of the U.S. Marine Corps.<sup>3</sup>
- **Rodney Blackmon:** Mr. Blackmon began his service with the Travis County Sheriff's Office in 1989, working in both corrections and law enforcement. Mr. Blackmon has received Master-level certifications with respect to both disciplines.
- **William Evans:** Mr. Evans served for 17 years with the Travis County Sheriff's Office after previously serving for three years as a civilian volunteer with the office.
- **Manuel Mancias:** Mr. Mancias served for 19 years in the Travis County Sheriff's Office, retiring at the rank of Sergeant. He spent five years as a Detective and Supervisor of the Major Crimes unit.

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<sup>3</sup> Mr. Birdwell joins this brief in his capacity as a former law enforcement officer, not in his current capacity as a Municipal Court Associate Justice.

- **Pete Mateo:** Mr. Mateo served for 27 years with the Travis County Sheriff's Office, mostly as a patrol officer, and has also worked in corrections. Mr. Mateo is a certified Master Peace Officer and has also received a Master-level certification in corrections.
- **Mike McCann:** Mr. McCann served 27 years in public safety roles, including 18 years of service with the Cedar Park Police Department. He was a patrol supervisor at that department when he retired in 2016.
- **Jordan Murray:** Mr. Murray has been a Reserve Officer with the Smithville, Texas police department since 2012.
- **Robert Phillips:** Mr. Phillips has been a Texas law enforcement and corrections officer for over 23 years, and currently serves in commercial vehicle enforcement with the Travis County Sheriff's Office. He is a certified Master Peace Officer and holds an advanced certification in corrections.
- **Shane Sexton:** Mr. Sexton currently serves as Chief of Police for the Concordia University Texas Police Department, and is a Board Member for the Texas Association of College and University Police Administrators. He has served in law enforcement since 2000. Mr. Sexton is a certified Master Peace Officer, an Adjunct Instructor for the Austin Police Academy



and the UT System Police Academy, and previously served as a Texas Commission on Law Enforcement Instructor.

- **Samuel Strauss:** Mr. Strauss has served as a Reserve Deputy and Reserve Deputy Constable with the Travis County Sheriff's Office, Williamson County Sheriff's Office, and Williamson County Precinct 1 Constable's Office.
- **Jessie "Jess" Tippie:** Mr. Tippie retired in 2018 with over thirty years of experience as a Texas law enforcement officer. He spent ten years with the Bastrop County Sheriff's Office, including six as a criminal investigator. He also served thirteen years with the Travis County Sheriff's Office.
- **Jay Whitney:** Mr. Whitney served for 34 years in the Grayson County Sheriff's Office, including 15 years' experience in narcotics and criminal investigations that involved six homicide investigations. Mr. Whitney has investigated several cold cases, where he has seen first-hand the consequences of investigative biases.

## **B. Wrongful Convictions and the Rule of Law**

Amici have a broad range of experience in law enforcement but share a common belief that only the guilty should suffer punishment, especially when capital punishment is involved. To be sure, law enforcement should ensure community safety. But the need

to treat the people of the community with dignity and respect, and to meet with and listen to community members about their needs and concerns, is just as important. Allowing Mr. Reed to be executed while significant questions exist about the accuracy of his conviction would serve neither of these goals.

Indeed, it benefits both the law enforcement community and the public when convictions and executions are both actually reliable, and generally perceived to be reliable. The existence and perception of wrongful convictions undermine the public's trust in law enforcement. This in turn may discourage members of the community from cooperating with law enforcement, thus making it even harder for law enforcement personnel to perform what is already a difficult job. And of course, wrongful convictions are directly antithetical to law enforcement officers' foremost sworn duty: to uphold the law.

## **II. AMICI BELIEVE THERE IS A MANIFEST NEED FOR HEIGHTENED RELIABILITY IN CAPITAL CASES**

Capital cases require heightened reliability because, as this Court has consistently recognized, "death is different." *E.g.*, *Ford v. Wainwright*, 477 U.S. 399, 411 (1986) (plurality opinion).

The penalty of death differs from all other forms of criminal punishment, not in degree but in kind. It is unique in its total irrevocability. It is unique in its rejection of rehabilitation of the convict as a basic purpose of criminal justice. And it is unique, finally, in its absolute renunciation of all that is embodied in our concept of humanity.

*Furman v. Georgia*, 408 U.S. 238, 306 (1972) (Stewart, J., concurring); *accord, e.g., Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (plurality opinion) (“[T]he penalty of death is qualitatively different from a sentence of imprisonment, however long. Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two.”).

For decades, it has been a cornerstone of this Court’s death penalty jurisprudence that “this qualitative difference between death and other penalties calls for a greater degree of reliability when the death sentence is imposed.” *Lockett*, 438 U.S. at 604; *accord, e.g., Kennedy v. Louisiana*, 554 U.S. 407, 443-44 (prohibiting death penalty for non-fatal child rape in part because of risks of “unreliable ... child testimony”), *as modified on denial of reh’g*, 554 U.S. 945 (2008) ; *Lankford v. Idaho*, 500 U.S. 110, 125-26 (1991) (reversing conviction because judge’s failure to give notice that he was considering death penalty undermined relia-

bility of the adversarial process); *Whitmore v. Arkansas*, 495 U.S. 149, 167 (1990) (Marshall, J., dissenting) (“It is by now axiomatic ... that the unique, irrevocable nature of the death penalty necessitates safeguards not required for other punishments.”); *Caldwell v. Mississippi*, 472 U.S. 320, 330 (1985) (holding that death sentence is not constitutionally reliable if the jury is misled as to its “awesome responsibility” in sentencing); *Strickland v. Washington*, 466 U.S. 668, 688 (1984) (recognizing that ineffective assistance of counsel can threaten reliability by undermining the adversarial process); *Zant v. Stephens*, 462 U.S. 862, 884-85 (1983) (“[B]ecause there is a qualitative difference between death and any other permissible form of punishment, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.” (internal quotation marks and citation omitted)); *Gardner v. Florida*, 430 U.S. 349, 359 (1977) (holding that heightened need for reliability outweighs state’s interest in keeping presentencing report secret).

This principle applies whether the question is one of “reliability of the sentencing” or, as here, “reliability of the guilt determination.” *Beck v. Alabama*, 447 U.S. 625, 638 (1980). The bottom line is that “the severity of the sentence mandates careful scrutiny in the review of any colorable claim of error.” *Stephens*, 462 U.S. at 884-85.

### III. AMICI BELIEVE THAT SYSTEMIC FACTORS CREATED A HIGH RISK OF WRONGFUL CONVICTION IN THIS CASE

Despite this need for heightened reliability in capital cases, the record now shows that Mr. Reed's conviction was anything but reliable. Emerging criminology and social science research demonstrates that wrongful convictions predictably result from numerous factors present in this case, including forensic error, weak facts, tunnel vision, and community pressure.

In 2009, the National Research Council identified "a critical need in most fields of forensic science to raise the standards for reporting and testifying about the results of investigations." Nat'l Res. Council, *Strengthening Forensic Science in the United States: A Path Forward*, at 185 (2009). Forensic error often arises from the skewed interpretation of test results by expert witnesses at trial. For example, forensic error can include "overstating the inculpatory nature of the evidence by providing inaccurate or non-existent statistics" and "misstating the certainty of the results." Jon B. Gould, et al., *Predicting Erroneous Convictions: A Social Science Approach to Miscarriages of Justice*, at xix-xx (2012). For this reason, criminal justice professionals increasingly recognize that "[f]orensic science reports, and any courtroom testimony stemming from them, must include clear characterizations of the limitations

of the analyses, including associated probabilities where possible.” Nat’l Res. Council, *supra*, at 186.

But that salutary acknowledgment of the limits of forensic science did not occur at Mr. Reed’s trial. Instead, the State’s forensic experts testified categorically—and incorrectly—that sperm can remain intact for no more than 24 or 26 hours after intercourse. (App. 91a-93a, 103a-104a, 306a-309a.) Studies show that forensic experts are particularly prone to overstating the probative value of their test results where, as here, there is scant evidence linking a defendant to a crime. “Forensic scientists, aware of the desired result of their analyses, might be influenced—even unwittingly—to interpret ambiguous data ... to support the police theory.” Keith A. Findley & Michael S. Scott, *The Multiple Dimensions of Tunnel Vision in Criminal Cases*, 2006 Wis. L. Rev. 291, 293 (2006); *see also* Gould et al., *supra*, at xix (noting that “weak facts may encourage prosecutors to engage in certain behaviors designed to bolster the case, which our statistics show help predict an erroneous conviction”). Here, the State’s forensic experts would have understood that the State’s case depended almost entirely on their testimony. Amici believe that the “weak facts” linking Mr. Reed to Ms. Stites’s murder invited the forensic experts to make the fundamental forensic errors that now taint Mr. Reed’s conviction.

As current and former law enforcement officers, Amici also recognize the problem of tunnel vision, to which all law enforcement officers are susceptible, and which “can occur at any point in the criminal justice process.” Gould, et al., *supra*, at xxi. Tunnel vision refers to the “‘compendium of common heuristics and logical fallacies,’ ... that lead actors in the criminal justice system to ‘focus on a suspect, select and filter the evidence that will “build a case” for conviction, while ignoring or suppressing evidence that points away from guilt.’” Findley & Scott, *supra*, at 292 (citations omitted). This phenomenon does not depend on any bad faith or incompetence of the officers involved. Rather, it is a result of ordinary cognitive bias, that can make even experienced, well-intentioned officers fixate on a theory of the case that, from an objective perspective, does not hold up.

Amici believe that tunnel vision also tainted the investigation of Ms. Stites’s murder. In particular, the pre-trial investigation shows that police did not believe the forensic evidence exonerated Mr. Fennell *until after* Mr. Reed became a suspect. Only after Mr. Reed was identified as the source of an intimate sample did police consider the forensic evidence dispositive of guilt.

Shortly after Ms. Stites was murdered in April 1996, vaginal swabs obtained at the crime scene and during a subsequent autopsy revealed a small number of intact spermatozoa. (App. 92a-93a.) These sperm

cells were not linked to Mr. Reed until a year later, in early 1997. (App. 102a.) In the interim, investigators spent months considering Mr. Fennell as a suspect, subjecting him to aggressive interrogations and polygraph tests which led him to invoke his Fifth Amendment privilege against self-incrimination. Mr. Fennell was actively pursued as a suspect “even though DNA testing excluded him as the donor of the semen.” (App. 99a.) So long as Mr. Fennell was their primary suspect, investigators did not regard unidentified sperm in the victim’s body as evidence that Mr. Fennell had not committed the murder. Only after the sperm had been linked to a specific person—Mr. Reed—did the State adopt the theory that the person who deposited the sperm must also have committed the murder. At that point, Amici believe that tunnel vision set in and investigators allowed themselves to forget what they had previously known: that another person’s sperm did not necessarily exculpate Mr. Fennell. Investigators abruptly shifted focus to Mr. Reed and never looked back. This fixation on Mr. Reed despite such weak evidence raises Amici’s concerns that he was, as one Amicus has phrased it, “railroad[ed].” (E-mail from Amicus Rodney Blackmon.)

Finally, Amici believe that Mr. Reed’s conviction was tainted by “community pressure,” which “may encourage overly swift resolutions to cases involving serious crimes like rape and murder.” Gould, et al., *supra*, at xviii-xix. Community pressure helps explain



how well-meaning investigators, prosecutors, and scientific experts may unwittingly succumb to tunnel vision, fixate on a suspect despite limited evidence against him, and exaggerate the import of ambiguous forensic evidence to compensate for fundamental weaknesses in the State’s proof. In a high-profile murder case, these factors can become mutually self-reinforcing, “dismantl[ing] the rigorous testing of evidence that makes the investigative and adversarial processes function effectively.” *Id.* at xxi. “[O]verall, the erroneously convicted are truly cases of systemic failure.” *Id.* (emphasis in original).

#### IV. GRANTING MR. REED’S PETITION WOULD NOT “OPEN THE FLOODGATES” TO MERITLESS *HABEAS* CLAIMS

Amici submit that Mr. Reed’s case presents two exceptional factors that warrant additional review: the complete undermining of the forensic case against him and the strong evidence pointing to Mr. Fennell as the real killer. These factors are not present in most cases, so granting relief in this case would not mean opening the door to thousands of other appeals and collateral attacks.

Moreover, granting relief in this case would be consistent with the Court’s traditional use of innocence—or a significant possibility of innocence—as a “safety valve” in capital cases. Indeed, Amici note that this case is factually quite similar to *House v. Bell*, 547

U.S. 518 (2006), where this Court allowed the petitioner (Mr. House) to bring defaulted *habeas* claims because there was significant evidence of actual innocence. (Mr. House was subsequently exonerated and freed.)

As current and former law enforcement officials, Amici believe as much as anyone in the need for finality in criminal prosecutions. Meritless appeals and collateral attacks can waste resources and deny closure to victims and their families. Evidence and witness testimony are often more reliable when they are fresh. Thus, the trial is supposed to be the “main event.” *Wainwright v. Sykes*, 433 U.S. 72, 90 (1977). But these considerations do not outweigh the enormity of potentially executing an innocent person, which, this Court has recognized, is “[t]he quintessential miscarriage of justice.” *Schlup v. Delo*, 513 U.S. 298, 324-25 (1995). Expedience cannot become a substitute for justice. For that reason, the Court has long allowed *habeas* claims that would otherwise be barred to avoid a miscarriage of justice. *E.g.*, *House*, 547 U.S. at 555; *Sanders v. United States*, 373 U.S. 1, 16 (1963).<sup>4</sup>

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<sup>4</sup> This principle is so important, in fact, that the Court has continued to apply the “ends of justice” exception even though it is not expressly stated in the applicable statutes. *See House*, 547 U.S. at 539 (reading limitations of the Antiterrorism and Effective Death Penalty Act as inapplicable to litigation of “defaulted claims based on a showing of actual innocence”); *Kuhlmann v. Wilson*, 477 U.S. 436, 451 (1986) (similar).

Mr. Reed's case is strikingly similar to *House v. Bell*. In *House*, this Court found that the defendant had made a sufficient "gateway" showing of potential innocence to allow him to seek *habeas* review of procedurally defaulted constitutional claims. 547 U.S. at 555. The Court based this holding on two factors, which are also present here: the complete undermining of the forensic case against the petitioner and a compelling alternative suspect.

First, the forensic evidence against Mr. House was completely undermined. DNA testing showed that semen found on the victim, "the only forensic evidence at the scene that would link Mr. House to the murder," did not match Mr. House. *Id.* at 540-41. Expert testimony also showed that blood on Mr. House's pants most likely came from cross-contamination by the police. *Id.* at 541-44. This case is similar. The scientific basis for Mr. Reed's conviction has completely eroded as the State's three forensic experts (or their colleagues and successors) have acknowledged significant flaws in the scientific opinions presented against Mr. Reed at trial. (App. 228a-229a, 233a, 277a.) These developments raise profound concerns because forensic evidence was the cornerstone of the State's case. With the validity of that evidence now in serious doubt, the overall weakness of the case against Mr. Reed appears striking and unmistakable. Most notably, no physical evidence links Mr. Reed to either of the two crime scenes. And new evidence and witnesses

support Mr. Reed’s claim that he had a consensual sexual relationship with Ms. Stites (App. 422a-434a).

Second, Mr. House presented new “troubling evidence” showing that someone else—the victim’s husband—“could have been the murderer.” 547 U.S. at 548. This evidence included testimony that the victim’s husband had been physically abusive, *id.* at 548-49, tried to fabricate an alibi, *id.* at 549, and lied to police about his whereabouts on the night of the murder. *Id.* at 551. In this case, Mr. Reed has presented similar new evidence that implicates Ms. Stites’s fiancé, Mr. Fennell, as a strong suspect in her murder. (App. 344a). Evidence, including a rape conviction, demonstrates Mr. Fennell’s history of violence towards women. (Pet. 10; App. 182a-83a.) A witness heard Mr. Fennell say that he would strangle his girlfriend with a belt if he ever caught her cheating. (App. 117a.) Mr. Fennell told inconsistent stories about his whereabouts on the night of the murder. (*See* Pet. 11-13.) And his own testimony puts him with Ms. Stites at the time she was killed. (*See* Pet. 10). In Amici’s view, Mr. Reed’s conviction cannot be considered reliable without ruling out the substantial chance that Mr. Fennell was Ms. Stites’s real killer.

These two factors, so persuasive in *House*, are both extreme and uncommon. As this Court has noted, “[c]laims of actual innocence pose less of a threat to scarce judicial resources and to principles of finality and comity” than do other kinds of collateral attack, in

large part because “experience has taught us that a substantial claim that constitutional error has caused the conviction of an innocent person is extremely rare.” *Schlup*, 513 U.S. at 324.

These factors are also relatively objective. This is not a case where the weight of the evidence has merely shifted; rather, the forensic case against Mr. Reed has been completely obliterated. Similarly, the new evidence showing Mr. Fennell’s predilection for violence against women and his means, motive, and opportunity to murder Ms. Stites go far beyond a whiff of possibility. Thus, opening the courthouse doors to Mr. Reed’s claims would not open a floodgate of meritless *habeas* suits.

## CONCLUSION

For all of the foregoing reasons, Amici urge the Court to grant the Petition for Certiorari and reverse the decision below.

Respectfully submitted,

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OCTOBER 28, 2019

# Exhibit 18

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**RODNEY REED,**

**Petitioner**

**v.**

**DOUG DRETKE, Director, Texas  
Department of Criminal Justice,  
Institutional Division,  
Respondent**

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**CIVIL ACTION NO. A-02-CA-142**

**DECLARATION OF ROBERTO J. BAYARDO, M.D.**

STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

1. My name is Roberto J. Bayardo, M.D. I am over the age of 18 years and fully competent in all respects to make this Declaration. All the facts recited herein are within my personal knowledge and are true and correct. All of the opinions recited herein are expressed within a reasonable degree of medical and/or scientific probability, except where noted.

2. I am a forensic pathologist, and the former Travis County Medical Examiner. I performed the autopsy on Stacy Stites, and testified at the trial of Rodney Reed. I have recently reviewed the following materials:

- a. The autopsy report on Ms. Stites;
- b. My trial testimony;
- c. Excerpts from the trial testimony of Karen Blakely and Meghan Clement; and
- d. The April 14, 2006 affidavit and June 16, 2010 declaration of Leroy Riddick, M.D.

I am also personally aware that Jimmy Fennell, who was a Giddings police officer at the time of Ms. Stites's death, and was a suspect in her murder, has been convicted of sexual assault while



serving as police officer in Georgetown, Texas and is in prison. Based on the materials identified above, the information concerning Mr. Fennell, and my expertise as a forensic pathologist, I have the following opinions and clarifications.

3. Time of Death. At trial, I testified that I estimated the time of death as 3:00 a.m. on April 23, 1996. Estimates regarding time of death are just that – estimates – and the accuracy of the estimate is subject to various factors, as outlined by Dr. Riddick in paragraphs 10-13 of his April 14, 2006 affidavit. My estimate of time of death, again, was only an estimate, and should not have been used at trial as an accurate statement of when Ms. Stites died. (As I testified, I am unaware of how long it was between the time of death and the time her body was brought to the Travis County Medical Examiner's office.) If the prosecuting attorneys had advised me that they intended to use my time of death estimate as a scientifically reliable opinion of when Ms. Stites died, I would have advised them not to do so. In my professional opinion, pinpointing a precise time of exactly when Ms. Stites died would have been, and remains, impossible.

4. Survival of Sperm. At trial, I testified that the very few spermatozoa I found in Ms. Stites's vaginal cavity had been deposited there "quite recently." Ms. Blakely testified that spermatozoa can remain intact in the vaginal cavity for no more than 26 hours; and Ms. Clement testified that spermatozoa can remain intact for no more than 24 hours. I question the qualifications of these witnesses to offer this testimony, and in any event, they are incorrect. I am personally aware of medical literature finding that spermatozoa can remain intact in the vaginal cavity for days after death. Accordingly, in my professional opinion, the spermatozoa I found in Ms. Stites's vaginal cavity could have been deposited days before her death. Further, the fact that I found "very few" (as stated in the autopsy report) spermatozoa in Ms. Stites's vaginal cavity suggests that the spermatozoa was not deposited less than 24 hours before Ms. Stites's

death. If the prosecuting attorneys had advised me that they intended to present testimony that spermatozoa cannot remain intact in the vaginal cavity for more than 26 hours, and argue that Ms. Stites died within 24 hours of the spermatozoa being deposited, I would have advised them that neither the testimony nor the argument was medically or scientifically supported.

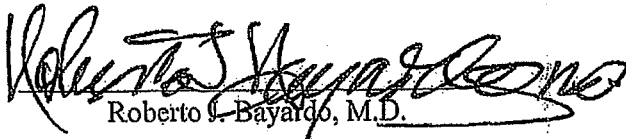
5. Sperm Not Found in Rectum. I reported in the autopsy report and testified at trial that rectal smears taken of Ms. Stites were negative for spermatozoa and seminal fluid. Upon direct examination, I did testify that under a microscope, the rectal smears showed what appeared to be the heads of spermatozoa. However, the smears were insufficient to conclude that spermatozoa were present in the rectum. Accordingly, I reported the smears as negative on the autopsy report. My trial testimony should not have been construed as suggesting that spermatozoa were indeed found in Ms. Stites's rectal cavity. Had the prosecuting attorneys advised me that they intended to present my testimony as evidence that spermatozoa was found in Ms. Stites's rectal cavity, I would have informed them that that was incorrect. An autopsy report is the result of scientifically valid, forensic pathology methods. Trial testimony is given in response to the questions asked. Had I been asked at trial if spermatozoa and/or seminal fluid had been found in Ms. Stites's rectal cavity, I would have said that it had not, consistent with the autopsy report.

6. Sexual Assault. I found on autopsy that Ms. Stites was sexually assaulted, and testified consistently at trial. However, the presence of spermatozoa in Ms. Stites's vaginal cavity was not evidence of sexual assault. There was no indication that the spermatozoa in Ms. Stites's vaginal cavity was placed there in any fashion other than consensually. Also, because there was no spermatozoa found in Ms. Stites's rectal cavity, there is no evidence that any spermatozoa was deposited in the rectal cavity as a result of the sexual assault. In my

professional opinion, Ms. Stites was sexually assaulted in her anal cavity, and that assault did not result in the deposit of any spermatozoa. The injuries to Ms. Stites's anus are certainly consistent with penile penetration, as I testified, but if there was penile penetration, there was no ejaculation. I understand that the sexual assault for which Mr. Fennell was convicted did not involve ejaculation. This is consistent with the sexual assault on Ms. Stites. Further, the injuries to Ms. Stites's anus are more consistent with penetration by a rod-like instrument, such as a police baton.

7. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 13, 2012.

  
Roberto J. Bayardo, M.D.

# Exhibit 19

[illegible]

I am a medical doctor licensed to practice medicine. I graduated from medical school in 1953 and have undertaken residency in pathology followed by fellowship in forensic pathology. I am certified by the American Board of Pathology in anatomic pathology (1961) and forensic pathology (1965). I have spent my entire professional life (62 years) in the practice of forensic pathology. My curriculum vitae is attached.

- 1

would have taken at least 4-5 hours to develop. It is impossible that Stites was murdered and left at the scene in the two-hour time frame asserted by the State at trial. I have reviewed the trial transcripts of the pathologist Roberto Bayardo M.D. and the Crime Scene Investigator Karen Blakely. The medico-scientific analysis of the lividity I discuss was never addressed.

4. Dr. Bayardo describes "slight residual" rigor at autopsy conducted at 1:30 p.m. on April 24, 1996, after the body was refrigerated since approximately 11 p.m. on April 23<sup>rd</sup>. Rigor is seen on the crime scene video, but the arms are easily placed down from above Stites's head as she is put into a body bag before sundown on April 23, 1996. This movement of the arms shows passing rigor. Likewise, "slight residual rigor" after refrigeration at the ME's office is consistent with passing rigor, at the time the body is filmed in the video.

5. Rigor is markedly temperature-dependent. In warm weather rigor mortis progresses faster, in cool weather it progresses more slowly. The average temperature on April 23<sup>rd</sup> was in the mid-60s. Taking this temperature into consideration, passing rigor, as depicted in the video, is consistent with death of about 20-24 hours prior to the video—a period of 15 hours as estimated by Dr. Bayardo would not allow for such movement, without having broken the rigidity.

6. Very few sperm were found on autopsy smears, and the crime scene investigator found only 3 intact spermatozoa. If the victim was sexually assaulted between 3-5 a.m., there would be more sperm found on slides. A normal sperm count is considered to be 15 million spermatozoa per milliliter. The amount of sperm found on the slides is more consistent with a longer interval between intercourse and the time the sample was collected. As I explain in my book, intact spermatozoa can be found in the vagina up to 72 hours after coitus.

7. My review shows evidence of decomposition that is not consistent with a time of death at 3 a.m. on April 23, 1996. The body is described as having green discoloration, which can be seen in the video. The appearance of the breasts after the bra is removed shows gas formation. The abdomen does not appear flat. There is skin slippage in several places. What is described at autopsy as post mortem burns in the face, breasts, and other areas is also likely skin slippage, in which the top layer of skin has dried. What has been described as petechiae in the scalp are none other than small torn blood vessels in the process of reflection of the scalp. Brown fluid running from the mouth and nose, across the right cheek is decomposition fluid and is not described in the autopsy report. Internal organs also show evidence of decomposition—what Dr. Bayardo describes as congestion in lungs is actually decomposition. The heart is flabby and the blood is liquid after liquefaction which is part of the decomposition process.

Brain swelling is also part of decomposition. This amount of decomposition supports a post-mortem interval of about 20 to 24 hours before the film and photographs.

8. The distended anus seen in photos and described at autopsy is normal, in consideration of the absence of rigidity. It is a common mistake for death investigators to misinterpret natural relaxation of the sphincter, as evidence of anal penetration. There are no apparent lacerations in the photographs of the anus. If lacerations were present, they would be visible. Abrasions described at autopsy are not evidence of anal assault, and are equally consistent with hard bowel movements. I am aware that there was a weak DNA result consistent with Rodney Reed on the sperm fraction of the rectal swab taken from Stites. The presence of a small amount of sperm in the rectum is not surprising and does not contradict my conclusion that there is no evidence of anal penetration in this case. When semen is present in a body, it can drain from the vagina into the dilated anus. I have seen this happen in a number of cases. Contamination of the rectal swab by vaginal contents is also a concern, especially in cases where vaginal swabs are collected prior to the taking of the rectal specimens.

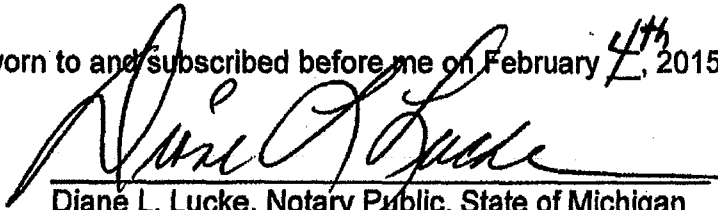
9. The examination of the body at the scene was inappropriate. None of the investigation should have been done by the crime scene investigator. The body should have been placed in a body bag, preserving all trace evidence, and then taken to a controlled environment where it could be examined by a forensic pathologist. But despite these errors, the photographs and video provide enough evidence to estimate the post-mortem interval. These observable factors include: lividity, rigor, amount of residual sperm in the genital tract, and evidence of decomposition. When all of these factors are considered together, it becomes indisputable that the time of death was considerably earlier than 3:00 am on April 23<sup>rd</sup> as estimated by Dr. Bayardo. All findings point to a post-mortem interval of about 20-24 hours prior to the time the body was filmed.

10. My textbook, *MEDICOLEGAL INVESTIGATION OF DEATH*, 4<sup>th</sup> edition, published by Charles C. Thomas, Springfield, Illinois, 2006 discusses many of the issues in this affidavit in greater detail.

11. All my opinions expressed in the above paragraphs 1-10 are based on my education, training and experience and are rendered to a reasonable degree of medical certainty.

  
Werner U. Spitz, M.D.

Sworn to and subscribed before me on February <sup>4<sup>th</sup></sup> 2015

  
Diane L. Lucke, Notary Public, State of Michigan  
Monroe County, Acting in Macomb County  
My commission expires: October 20, 2017



# Exhibit 20

## Michael M. Baden, M.D.

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10 February 2015

*Via e-mail to [bbenjet@innocenceproject.com](mailto:bbenjet@innocenceproject.com)*

Bryce Benjet  
Staff Attorney, Innocence Project  
40 Worth Street, Suite 701  
New York, New York 10013

*Re: Stacey Stites, deceased*

Dear Mr. Benjet:

1. I am a physician, licensed to practice medicine in the State of New York and Board-Certified in Anatomic, Clinical and Forensic Pathology. I am a former Chief Medical Examiner of New York City and the former Chief Forensic Pathologist for the New York State Police. I have held professorial appointments at Albert Einstein Medical School, Albany Medical College, New York Law School and John Jay College of Criminal Justice. I served as Chairman of the Forensic Pathology Panels of the United States Congress Select Committee on Assassinations that reinvestigated the deaths of President John F. Kennedy and Dr. Martin Luther King, Jr. (1970s). I have been a forensic pathology consultant to the Federal Bureau of Investigation,

the Veterans Administration, the U.S. Department of Justice and the U.S. Drug Enforcement Agency. Attached hereto is a copy of my *curriculum vitae*.

2. I have reviewed the autopsy report and other medical examiner office documents, scene and autopsy and clothing photographs, a scene videotape, police reports, laboratory reports and a statement by Mrs. Carol Stites relative to the death of Stacey Stites, 19 years old.

3. According to Mrs. Stites, her daughter returned from work as usual about 1:30 p.m. on April 22, 1996. She went upstairs to the apartment she and her fiancé Jimmy Fennel, a police officer, shared, changed out of her work clothes and came back down. She stayed with her mother until about 8:00 p.m. when Mr. Fennel returned from baseball practice and they both went upstairs. That was the last time Mrs. Stites saw her daughter alive.

4. Mr. Fennel told police that Ms. Stites left their apartment to drive to work in his pickup truck by herself about 3:00 a.m. on April 23, 1996. The unoccupied truck was seen parked in the Bastrop High School parking lot by a patrol officer less than 2-1/2 hours later, at 5:23 a.m. The officer also noticed a six to eight inch length of part of a leather belt with a square chrome buckle on the ground in front of the driver's door.

5. Ms. Stites' partially clothed body was found lying face-up in brush a number of yards from an unpaved road about 3:00 p.m. the same day. Prominent

lividity was noted on the front non-dependent parts of her body by responding sheriff's department officers. This inappropriate lividity is clearly documented in scene photographs. A homicidal ligature mark was present around her neck and the ligature, the remainder of the belt portion seen near the truck, was nearby.

6. Lividity develops by the gravitational settling of red blood cells while still in blood vessels in the lower dependent portions of the body after death causing a maroon-type discoloration of the skin. The intensity and extent of the lividity present on Ms. Stites' body demonstrates that she would have lain face down after she was dead for more than four or five hours in order for this lividity to remain after she was turned over when she was placed on her back in the brush. This lividity demonstrates that Ms. Stites was dead before midnight on April 22<sup>nd</sup> when she was alone with Mr. Fennel.

7. Examination of the truck showed that the driver's seat was reclined back and the passenger seat was in a slightly forward position. "Some type of viscous fluid" was found on the passenger-side floorboard. This is not pulmonary edema fluid from Ms. Stites as interpreted by the prosecution. Pulmonary edema fluid is thin and frothy and would also have been present in and around her mouth and nose, and was not. Pulmonary edema fluid is not viscous. This is typical post-mortem purge fluid that flowed from her nose and mouth as her body began to decompose and showed other decomposition changes, such as skin slippage and

green discoloration of skin, which were also described at the scene and autopsy. It would have taken more than four hours after her death for this purge fluid to develop. It could not have developed in less than 2-1/2 hours if she were alive at 3:00 a.m. when she got into the truck. This finding also demonstrates that she had been dead for a number of hours, before midnight, when she was placed in the passenger seat.

8. The testimony at trial that no intact sperm remains in the vagina after 24 hours is not correct. It is my experience, and the experience of other forensic pathologists as reported in the forensic science literature, that sperm may remain intact for more than 72 hours after intercourse. The few sperm seen are entirely consistent with consensual intercourse that Mr. Reed said occurred between midnight and 3:00 a.m. on April 22, 1996.

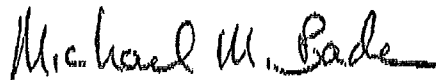
9. The autopsy photographs show dilatation of Ms. Stites' anus that normally occurs after death when the anal sphincter muscles relax. No lacerations, no blood, no semen were present in or around the anus in the photographs and which finding was also confirmed in Dr. Bayardo's autopsy report. There is no evidence of anal penetration. There is no forensic evidence that Ms. Stites was sexually assaulted in any manner.

10. In my opinion removing the clothing and performing vaginal swabs at the scene where the body was found rather than at the properly equipped medical

examiner's office is contrary to proper forensic practice. Such procedure can cause loss of trace evidence at the scene and contamination of evidence that is removed and evidence that remains, including contamination of rectal swabs with vaginal contents.

11. It is my opinion, to a reasonable degree of medical and scientific certainty, based on my education, training and more than fifty years' experience as a forensic pathologist, that the distribution and intensity of Mrs. Stites' lividity shows that she was murdered before midnight of April 22, more than four hours before she was brought to where her body was found; that she was already dead with signs of decomposition and development of purge fluids when she was placed in the truck; that intact sperm could be present two or three days after consensual vaginal intercourse; and that there is no evidence of anal intercourse or of sexual assault. It is further my opinion beyond a reasonable degree of medical certainty that, based on all of the forensic evidence, Mr. Reed is scheduled to be executed for a crime that he did not commit.

Very truly yours,

A handwritten signature in black ink, reading "Michael M. Baden". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael M. Baden, M.D.  
Former Chief Medical Examiner,  
City of New York  
Former Chief Forensic Pathologist,  
New York State Police

MMB:ph

# Exhibit 21



County of Mobile )

)

State of Alabama )

**Affidavit of LeRoy Riddick**

LeRoy Riddick, M.D., being duly sworn, deposes and says upon penalty of perjury thereof:

1. My name is LeRoy Riddick and I am a medical doctor licensed to practice in the State of Alabama. I am board certified in anatomic and forensic pathology. I served as an adjunct professor in the pathology department at the University of South Alabama College of Medicine until I retired from that position in 2013. I retired from employment with the State of Alabama in 2006. Before my retirement, I was employed as a State Medical Examiner by the Alabama Department of Forensic Services, an agency of the State of Alabama. In addition, I served as the County Medical Examiner for the County of Mobile, Alabama and Laboratory Director for the Region IV Full Service Forensic Science Laboratory for the Alabama Department of Forensic Sciences. I was employed both as a State Medical Examiner and as County Medical Examiner for over 25 years. I currently consult privately on issues of forensic pathology. I was deputy medical examiner in Washington D.C. from 1974 until I moved to Alabama in 1979.

2. Over my career with the State of Alabama, my responsibilities extended to virtually every aspect of forensic investigation. I have attended over 75 homicide scenes and conducted thousands of autopsies. In my capacity as the administrative director of the Region IV Full Service Forensic Laboratory in the State of Alabama, I also worked with scientists and analysts in drug chemistry, firearms and toolmarks, forensic biology (DNA), toxicology, and latent fingerprint examination.

3. I have testified as a qualified expert witness in more than 500 court appearances in a number of jurisdictions including the federal courts in Alabama, the District of Columbia and Louisiana, and in state courts in Alabama and Mississippi. I have testified for the prosecution and the defense. In most of the cases in which I have testified as an expert witness, I have done so on behalf of the prosecution in state court and the federal government in federal court. My curriculum vitae is attached to this Affidavit as Exhibit 1.

4. I examined the following items from *State of Texas v. Rodney Reed*:
- a. Medical Examiner's Report of the autopsy of Stacey Stites performed by Robert J. Bayardo, M.D.;
  - b. Photographs of: Ms. Stites' body at the scene where it was recovered; Ms. Stites' clothing; and Ms. Stites' body at the autopsy;
  - c. The videotape showing where Ms. Stites' body was recovered and evidence collection;
  - d. The trial testimony of Robert J. Bayardo, M.D., Meghan Clement, and Elizabeth Johnson and the trial and state habeas corpus hearing testimony of Karen Blakely;
  - e. Reports from the Texas Department of Public Safety Crime Laboratory;
  - f. Crime scene reports from various law enforcement agencies; and
  - g. Police reports of witness interviews and the Affidavit of Rodney Reed.

I have also conferred with other experts regarding this case and reviewed written statements by Ronald Singer, M.S., Roberto Bayardo, M.D., and Joseph Warren, Ph.D. Based upon my review of the documents listed above, and based upon my knowledge, training, experience and education, I have reached several conclusions and opinions which are expressed in this affidavit. These conclusions and opinions are based upon a reasonable degree of medical certainty.

5. I was initially retained over 10 years ago to assist attorneys representing Rodney Reed in evaluating the forensic evidence in the case. I have previously provided written opinions in 2003, 2006, and in 2010. I was contacted again in the fall of 2014 to re-examine the case and to supplement the opinions that I have previously offered in this case if I discovered anything new in this re-examination. I was asked specifically to look at the crime scene video, crime scene and autopsy photographs, and other documents to see if they contained evidence that would assist in determining the post mortem interval. As part of my re-evaluation of the case, I have also conferred with other experts in

forensic investigation. In conducting this re-evaluation of the case, I have noticed additional forensic evidence which has allowed me to address the post-mortem interval with greater accuracy than I have in my prior statements.

### **Post Mortem Interval**

6. The post mortem interval (the time between the victim's death and the time when the body is discovered) is one of the most difficult tasks of the death investigator with the most experienced and qualified forensic investigator being the medical examiner, forensic pathologist. Currently in forensic practice, there is no scientific means of determining that interval with precision. The investigator is left with making an estimation based on the circumstances surrounding the body and the post mortem changes in the body, which generally progress in a regular manner. These changes are rigor mortis (stiffening of the muscles to chemical alterations in the cells), livor mortis (pink to red discoloration of the skin due to blood settling in the vessels and later seeping into the skin), and algor mortis (cooling of the body.) Examination of the chemical composition of the vitreous humor, the fluid in the eye can also be employed. All of the modalities with the exception of analysis of the vitreous humor need to be systematically determined at the scene by the medical examiner, the scientist with the most experience in making these determinations. In this case, the medical examiner did not attend the scene and none of the investigators, including the law enforcement officers and forensic technicians, systematically examined the body for rigor, livor, and temperature. The vitreous was never analyzed.

7. Despite the absence of a systematic investigation of these key elements, much can be derived from a review of the existing record, especially the videotape of the crime scene investigation, which is attached as Exhibit 2 to this Affidavit. The first officers at the scene from the Bastrop Police Department made no scene report. Lt. David Campos Jr. from the Bastrop Sheriff's Office, who arrived at the scene some time (not specified) after 3:11 p.m. on April 23, 1996, made the recorded observation in a typewritten report that "The body had marked lividity and rigor mortis had set in." He did not specify any muscle groups or the intensity of the stiffness, which would have indicated whether the rigor was beginning, reached its peak, or waning. He did not test the lividity to ascertain if it blanched, that is, whether the color dissipated with pressure and did not return, indicating in general that the body has been in that position for several hours. The relevant portion of Lt. Campos's report is attached as Exhibit 3. Texas Ranger L.R. Wardlow, who entered the scene at 5:43 p.m. made observations about the position and clothing on the body but nothing about livor, rigor, or temperature. However, Wardlow

observed a "greenish discoloration" in parts of the body, including under each breast. The relevant portion of Ranger Wardlow's report is attached as Exhibit 4.

8. A time stamp on the video reads 16:19, which would indicate filming began at 4:19 p.m. However, a report by Texas Ranger Rocky Wardlow states that the filming began at 5:16 p.m. The video is not continuous and ends some time after dark. A time stamp at the end of the video shows 20:22 (8:22 p.m.) A note from DPS crime scene investigator Karen Blakely to the Medical Examiner's Office discussing the completed collection of evidence gives the time of 8:15 p.m. A copy of this note is attached as Exhibit 5. Ranger Wardlow indicates that the scene was released at 8:55 p.m. The Travis County Medical Examiner's Office records indicate that the body was received at 10:00 p.m. Based on this information, it appears that the video documents the condition of the body over a 3-4 hour period.

9. Dr. Bayardo, the medical examiner, at the time of the autopsy at 1:50 p.m. on April 24, 1996 and after the body had been examined at the scene, transported to the morgue, and refrigerated observed "slight residual rigor mortis" and "post mortem dependent lividity." Such observations made many hours after the body was found and subjected to movement and stored in a cooler at the morgue are open to critique and of little relevance to the determination of the post-mortem interval. In his trial testimony, Dr. Bayardo, without specifying anything other than "Based on the changes that occur after death in the body" opined that "an estimation of the time of death being around 3:00 a.m. on April 23, 1996," "Give or take one or two hours", making it between 1:00 and 5:00 a.m. An excerpt of the relevant portions of Dr. Bayardo's testimony is attached as Exhibit 6. It is impossible to evaluate Dr. Bayardo's conclusion because he was not asked and did not offer the basis for his time of death estimate. This testimony conformed to the State's theory of the case that the victim left home for work around 3:30 a.m. and was murdered between 3:30 a.m. and the time the truck she was driving was seen in a parking lot in Bastrop at 5:23 a.m. Assuming the victim left her home in Giddings according to her usual schedule at 3:30 a.m. and was abducted 30 miles away in Bastrop as alleged at trial, the post mortem interval from when the victim was first described and filmed around 5:15 p.m. would have been around thirteen (13) hours.

### **Rigor Mortis**

10. If the post mortem interval had been roughly thirteen hours as estimated by Dr. Bayardo at the trial, rigor should have been intense and progressing to completion. The crime scene video contradicts this finding and indicates a much longer post-mortem interval. A body in complete rigor (which is generally achieved at roughly 12 hours

under normal conditions and will be essentially unchanged at 13 hours) is stiff. Manipulation of an arm, a leg, or the head is difficult and will also result in moving the torso. The manipulation of the body demonstrated in the crime scene video, however, indicates that the limbs can be moved independently, thus indicating that rigor was no longer at its height and was passing. For example, a crime scene investigator can be seen lifting the left arm easily without the left side of the torso being lifted as it would have been with completed rigor. *See Exhibit 2 at 19:10-19:20.* The arm also flops back down when released. At frame 21:00 of the crime scene video, the left leg is moved without the body turning as it would have in advance rigor. In a subsequent frame, 23:26, the examiner easily turns the head to the left without having to move the stiff body and then allows the head to easily roll back to the right. At frame 23:46 to 23:50 of the video, the head, when moved by investigators, returns easily to its original position in a manner that is not consistent with the level of rigor I would expect if the victim had been killed at around 4:00 a.m. that morning. When the funeral directors move the body to a bag, they easily position the arms across the chest; a manipulation difficult to complete in a body stiff with complete rigor. This is depicted in Exhibit 2 at 27:15-27:50. In short, during the examination of the body between 5:15 p.m. and around 8:22 p.m. when the crime scene video ends, the body appears in many instances to be easily manipulated and at times the arms appear limp indicating that rigor has waned. Based on the lessening of rigor demonstrated in the crime scene video, I estimate that the post mortem interval is significantly longer than the 13 hours estimated at trial. The level of rigor demonstrated in the crime scene video is more consistent with a post-mortem interval of 16-20 hours from the first documentation of the body at 5:15 p.m.

11. My estimate of the post-mortem interval takes into account environmental factors that can affect the speed at which rigor develops. According to the National Weather Service, the temperature in the neighboring city of Elgin ranged from a low of 50 to a high of 75 degrees Fahrenheit on April 23, 1996. Although the National Weather Service indicated sixteen hundredths (.16) of an inch of precipitation on that day in Elgin, the videotape shows dry conditions at the crime scene.<sup>1</sup> Further, the body appears to be shaded by small trees and brush. These are normal conditions, which would not affect the routine progress of rigor. It is an accepted fact, proven through my career investigating death in southern Alabama, that the progress of rigor is accelerated in hot

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<sup>1</sup> A note written by Karen Blakely to the Medical Examiner's Office, attached as Exhibit 5, indicates that the victim's underwear and pants were wet. However, none of the other evidence such as the victim's bra and socks were described as wet, and it is common that a deceased person's pants and underwear become wet due to the post-mortem release of urine. This would not affect the development of rigor.

and humid conditions. Although there is evidence in the video of post mortem superficial burns on the left side of the victim's face, the lower portions of the breasts, the right leg, and the left forearm, the heat source that caused these superficial burns would not have been enough to affect temperature of the body as to accelerate the development and passing of rigor in the victim. I would expect to see significantly larger or more severe burns if the victim had come in contact with a source of heat sufficient to affect the progress of rigor.

### **Livor Mortis**

12. Another significant factor in my opinion as to the post-mortem interval is my observation of the location and level of livor in the body. As discussed above, livor mortis (or lividity) is the pooling of the blood to the lowest part of the body, described by clinicians as a dependant area. Lividity that exceeds faint patches of discoloration generally develops after at least 2 hours, and takes several more hours to become fixed. Lividity is fixed when the blood congeals in the capillaries or diffuses into the extravascular tissues. Once lividity is fixed, it will not be displaced by compression and will not shift if the body is moved. If lividity is not fixed, the blood that has pooled in one area will shift to a new area once the body has been moved. The figure attached as Exhibit 7 describes this phenomena with an approximation of the time required.<sup>2</sup> Observation of lividity is a key tool in determining whether a body has been moved after death and for how long the body was in a certain position. Lividity found on a non-dependant area of a body is evidence that the body was moved. A photograph from a forensic pathology text attached as Exhibit 8 shows fixed lividity in a non-dependent area, which is evidence that the body had been moved after having been in a different position for several hours.<sup>3</sup>

13. Photographs and the crime scene video show lividity on the back and other dependant areas in the position in which the victim was found. This lividity is depicted in the photograph attached as Exhibit 9. Absent documentation of blanching, however, I cannot state with precision how long the body was in the position in which it was discovered other than that it would take at least 4-6 hours for such complete lividity to form.

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<sup>2</sup> Burkhard Madea, *Handbook of Forensic Medicine* 80, figure 7.8 (Wiley 2014) (complete shifting of lividity expected if body turned within 6 hours of death) (Exhibit 7).

<sup>3</sup> J. Prahlow, R.W. Bayard, *Atlas of Forensic Pathology* 153 figure 8.13 ("After several hours, lividity becomes fixed," such that movement of a body from one position to another may become evident because the lividity pattern is inappropriate for the current body position) (Exhibit 8).

14. There is also lividity in the non-dependent areas of the victim's right shoulder and right arm. This lividity can be seen as the red coloration of the arm and portions of the shoulder in the photos attached as Exhibit 10. Just as is shown in the textbook photograph in Exhibit 8, this discoloration in the victim is identified as lividity based on the presence of white areas on the fingertips and near the elbow which show blanching through compression of the skin at the time the lividity developed. These blanched areas are circled in Exhibit 11. Because the lividity remains complete in the non-dependant areas of the right arm and shoulder and did not shift to the dependant areas of the body, this indicates that the victim's body was in a different position in which the right arm and shoulder were dependent for at least 4-6 hours.

15. In summary the observable evidence of rigor mortis and livor mortis discussed above do not support the conclusion offered at Reed's trial that the time of death was at 3:00 a.m. on April 23, 1996, even with a standard of error of two hours. Rather, the available forensic evidence indicates a post mortem interval of 16-20 hours from the time the body was first documented in the video with the body having been in a different position for a period of 4-6 hours.

#### **Time Since Intercourse**

16. At trial, Dr. Bayardo testified that he found intact sperm in his examination of a sample collected at autopsy and that the sperm he found was placed in the victim's vagina "quite recently." I have also reviewed similar trial testimony by crime scene investigator Karen Blakely and DNA analyst Meghan Clement. Ms. Blakely testified that spermatozoa will remain intact no longer than 26 hours in the female vaginal tract, and Ms. Clement testified that an intact spermatozoa would not be found on a rape kit more than 24 hours after a sexual encounter.

17. Both Ms. Blakely and Ms. Clement are incorrect regarding the length of time a morphologically intact sperm survives in the vagina. As a forensic pathologist, I am familiar with a host of medical literature that, simply put, absolutely refutes those witnesses' conclusions that a sperm cannot remain intact beyond 24 or 26 hours, and even refutes Dr. Bayardo's conclusion that the semen was introduced into the vagina a day or two before his autopsy exam. Reliable scientific studies, many of which I understand have been cited by Mr. Reed in his pleadings in this case, have found morphologically intact sperm in the human vagina after two, four, five, six, seven, and even 10 days. As a general rule, morphologically intact sperm can be expected to be seen up to 72 hours after intercourse.

### **No Reliable Evidence of Anal Rape**

18. The evidence of forced anal intercourse – whether pre- or post-mortem – is not conclusive in this case. Dr. Bayardo testified that he believed that the victim was raped anally. He based this conclusion on his testimony that he found lacerations on the anus, that that anus was dilated, and that he observed what may have been sperm heads in a rectal smear. Dr. Bayardo's opinion offered at trial is not supported by the available evidence.

19. First, no sperm was actually visualized on the rectal smears.<sup>4</sup> The small amount of sperm which was detected through DNA testing could have come from post-mortem cross contamination. The body was left at the scene on its back and remained in this position during the crime scene investigation, transportation to the morgue, and while stored at the morgue. Especially where the anus was dilated as depicted in the autopsy photo, sperm could have leaked from the vagina unto the anus. The videotape of the scene where the body was recovered also shows Karen Blakely taking pubic hair tape lifts in a manner that would transfer semen from the labia to the rectum. Additionally, the videotape shows that Ms. Blakely and others at the scene rolled Ms. Stites' body from its right side over onto its left side. This rolling was sufficient to cause sperm to be expelled from the vagina and to leak into the anus. The body was moved into a body bag, then moved onto a stretcher and then loaded for transport to the Office of the Travis County Medical Examiner, where it was moved to a refrigerated unit and then moved to an autopsy table. Thus, there were several opportunities for leakage by the time that Dr. Bayardo took the rectal swabs. It is also possible that the small amount of sperm detected by DNA testing was transferred through an error in collection such as touching the swab against an external area of the body that may have had sperm on it.

20. Second, the observation of dilation of the anus at the time of Dr. Bayardo's autopsy does not indicate anal sexual assault. The anus was not examined at the time that Ms. Stites' body was recovered. By the time Dr. Bayardo examined the body at 1:50 p.m. on April 24, 1996, Ms. Stites had been dead for more than 36 hours. Rigor mortis would be passing at this time, as reflected by Dr. Bayardo's observation of only "slight residual rigor mortis." With passing rigor mortis, sphincters, including the anus, dilate, and with manipulation from swabs can expand even more. The misinterpretation of postmortem dilation of the anus as sexual assault or sodomy is listed as one of the most

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<sup>4</sup> The Medical Examiner's Report submitted by Dr. Bayardo states, "[r]ectal smears are negative for spermatozoa."



common errors by forensic pathologists in the forensic pathology text *Spitz and Fisher's Medicolegal Investigation of Death*.<sup>5</sup>

21. Third, it cannot be concluded with any degree of scientific certainty that Ms. Stites' anus was lacerated and that those lacerations occurred around the time of death. The autopsy report describes "longitudinal linear abrasions." Abrasions are scrapes which are not necessarily associated with anal intercourse and can be caused by a hard bowel movement. Lacerations, by contrast, are tears in the skin. A trained forensic pathologist should not confuse these two terms. The photograph taken at the autopsy does not show breaks in the skin, a sign of a laceration. Blood would also be expected if the tear to the anus was sustained while the victim was alive. By contrast, it is possible that minor abrasions would be present that would not be seen on the photograph. To determine whether these were in fact lacerations, a microscopic section of this area should have been performed.

22. Additionally, Dr. Bayardo very clearly stated in both his testimony and the autopsy report that Ms. Stites' rectum was "intact and free of injury." The rectum is the lower 10-15 centimeters of the gastrointestinal tract. It is highly improbable that sperm heads could be found in the rectum as a result of forced anal intercourse without the existence of some noticeable trauma to the rectum. The fact that the rectum was intact and free of injury indicates that no forced anal intercourse occurred.

Further affiant sayeth naught.

*LeRoy Riddick*

LeRoy Riddick

Sworn and subscribed to before me, this 10 day of January, 2015.

*Michael Wynn Giles*

NOTARY PUBLIC

My commission expires: September 16, 2015

<sup>5</sup> *Spitz and Fisher's Medicolegal Investigation of Death* at 120.

# Exhibit 22

# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

[www.dps.texas.gov](http://www.dps.texas.gov)



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RANDY WATSON

April 30, 2018

Bryce Benjet  
Senior Staff Attorney  
Innocence Project  
40 Worth Street, Suite 701  
New York, NY 10013

Dear Mr. Benjet:

I have reviewed your correspondence entitled "Request for Correction, L-246937" dated July 11, 2017. I do not believe that Ms. Blakely's testimony constitutes professional negligence or professional misconduct and thus do not see a basis for the Crime Lab to report this matter to the Texas Forensic Science Commission pursuant to Article 38.01, Sec. 4, Texas Code of Criminal Procedure. The issues raised in your letter have been extensively litigated in this case. We do not see a duty to correct in this matter; however, during our review of the testimony by Ms. Blakely we noted some potential limitations in the paper she cited during testimony: *Spermatozoa -- Their Persistence After Sexual Intercourse*, GM Willott and JB Allard, *Forensic Science International*, 19 (1982) pp 135-154.

The Willott paper cited by Ms. Blakely during her testimony concerned a study that was undertaken to determine the amount of time spermatozoa could remain in the body after intercourse. Data for this study was collected from living victims and relied on the victim to correctly estimate the time since the offense (intercourse) occurred. The paper acknowledged that reliance on the victim to estimate the time since the offense occurred was a potential limitation to the research. The paper also included a table comparing the results of similar studies. In this table, a study by Davies and Wilson was referenced that reported 72 hours as the longest time for intact spermatozoa to be found in the vagina. The Davies and Wilson study, in contrast to the Willott study, relied on laboratory volunteers to collect samples at pre-established time points. The difference in collection method is a possible explanation for the difference in result. As seen in the table in the Willott paper, the literature varied greatly in the time given for finding spermatozoa (intact and otherwise) in the female reproductive tract.

Your letter indicates that you have sent your Request for Correction to the Texas Forensic Science Commission. We would fully cooperate with the Commission or the Courts regarding any hearings or reviews they may choose to conduct.

Sincerely,

Brady W. Mills  
Assistant Division Director  
Crime Laboratory Service  
Law Enforcement Service Division

cc: Lynn Garcia, Texas Forensic Science Commission

BWM:cg

# Exhibit 23



10430 Furnace Road, Suite 107  
Lorton, VA 22079  
Phone: 703-646-9740

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**Forensic DNA/Biology Analysis Testimony  
Result of Review  
January 11, 2018**

**To:**

Bryce Benjet  
Staff Attorney  
Innocence Project  
40 Worth Street, Suite 701  
New York, NY 10013

**Cellmark Case #: F9801744**

**List of Documents Evaluated from Innocence Project received on July 11, 2017:**

Transcript for Case F9801744

**CONCLUSIONS:**

Bode Cellmark has completed its review of the testimony transcript [and/or stipulation] for the case referenced above and found it to contain:

☐ Satisfactory Statements

☒ Unsatisfactory Statements

If Unsatisfactory: Bode Cellmark has completed its review of the testimony transcript [and/or stipulation] for the case referenced above and found it to contain:

☐ **Error Type 1:** The DNA Analyst stated an inclusion associated with a specific individual to the exclusion of all others when 1) source attribution threshold was not met (applicable only to cases reported before September 19, 2015) or 2) after Bode Cellmark discontinued the practice of applying source attribution (September 19, 2015).

☐ **Error Type 2:** The DNA Analyst provided an incorrect statistical value during testimony or incorrectly explained the meaning of the statistical value(s).

☒ **Error Type 3:** The DNA/Forensic Biology Analyst cites the number of cases and/or samples worked in the lab as a predictive value to bolster the conclusion that the DNA profile belongs to a specific individual or the DNA/Forensic Biology Analyst otherwise testifies beyond the scope of his/her expertise.

See enclosed Testimony Review Evaluation Form.

Report submitted by,

Stephane Sivak, MS  
Technical Leader

# Correction Review Evaluation Form

<b>Case Information:</b>	
Case Number:	F9801744
Defendant(s):	Rodney Reed
Date of Review:	11/22/2017

<b>Review of Testimony:</b>	
Date of Testimony:	5/11/1998
Testifying Analyst:	Meghan Clement
Name of Prosecutor:	Mr. Charles Penick, Mr. Forrest Sanderson, & Ms. Lisa Tanner
Name of Defense:	Mr. Calvin Garvie & Ms. Lydia Clay-Jackson
Testimony Results (mark as appropriate):	
Unsatisfactory Statements:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If testimony contained Unsatisfactory Statements, cite each by Error type, page(s), and line number(s):	
Page 55, lines 13-21	With spermatozoa, the tails are very fragile and tend to break off, so after a short period of time they start losing their tails and then what you find is only the spermatozoa heads, from sexual assault cases. So that can be an indicator of how long the spermatozoa has been in a particular place before it is actually collected and detected.
Page 56, lines 8-16	In serology work, typically, sexual assault kits weren't even collected more than 24 hours after an encounter because the chances of finding sperm is so rare. Generally, finding intact sperm at more than probably about 20 hours, 20 to 24 hours, I don't ever recall finding intact sperm more than that, from the time of the sexual assault and from the time the collection was made.
Page 56, line 18, after asked to clarify above response: "And that was in over thousands of rape kits?"	Yes.

Approved By:



Date: 1/11/2018

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# Exhibit 24

## **AFFIDAVIT OF PURNIMA BOKKA**

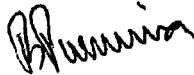
I, Purnima Bokka, declare, under penalty of perjury, that the following is true and correct:

1. My name is Purnima Bokka, I am over the age of 18 and otherwise fully competent to provide this affidavit. I am a Forensic Biology/DNA Analyst II at Bode Cellmark Forensics in Lorton, Virginia. I have a Bachelor's Degree from Anna University, India and a Master's in Forensic Science Degree from The George Washington University. I began working at Bode Cellmark in 2014 and in addition to my casework responsibilities; I also train new analysts and perform quality control on serological reagents used at Bode Cellmark. I have also previously testified in court as an expert in forensic biology.
2. Bode Cellmark Forensics is a private ASCLD/LAB accredited forensic DNA laboratory and regularly performs forensic biology and DNA testing of evidence from many law enforcement agencies, prosecutor's offices, crime labs, defense attorneys, Innocence Projects and public defender's offices across the country. The accreditation is based on ISO/IEC 17025:2005 standards and the FBI Quality Assurance Standards for Forensic DNA Testing and DNA Databasing Laboratories.
3. Bode Cellmark Forensics is one of the largest private DNA laboratories in the United States and routinely processes greater than 1,000 forensic cases per month, with approximately 3,000 to 5,000 items tested each month. Bode Cellmark has worked with several law enforcement agencies to help clear sexual assault kit backlogs which also included serological testing for spermatozoa.
4. Due to the physical morphology and structure, spermatozoa are more resilient than other cell types to regular body processes and externally induced processes such as washing. This results in longer survival times of spermatozoa within internal body cavities than other cell types. It is also observed that the recovery of intact sperm cells (head and tail) is typically low due to the nature of the sperm tails being fragile and susceptible to degradation, unlike the sperm heads.
5. Several studies have been conducted to study the persistence of spermatozoa in body cavities. The time frames for intact spermatozoa (with tail attached), that have been observed in living individuals, are up to 26 hours after intercourse in the vaginal cavity and up to 6 hours in the rectal and oral cavity <sup>[1-5]</sup>. Some studies have shown that intact sperm are less commonly seen as late as 72 to 144 hours in the vaginal cavity <sup>[3, 5]</sup>. Sperm heads (without tails) have been observed in living individuals up to 7 days after intercourse in the vaginal cavity, 2-3 days in the rectal cavity and 24 hours in the oral cavity <sup>[1-5]</sup>. These estimates are for internal body cavities and will be different for the persistence of spermatozoa on clothing items. The presence of spermatozoa in a sample depends on several factors including, but not limited to, the time of collection after intercourse and the number of sperm present in the ejaculate.
6. In my role as Forensic Biology/DNA Analyst II, I have processed over 500 cases that involved examination of spermatozoa. In my experience with microscopic examination of spermatozoa, I have not encountered intact sperm in forensic casework due to the processes involved in preparing a sample for microscopic examination. The chemicals used typically break down the tails resulting in only sperm heads being observed. Also, most samples in forensic casework are not collected or processed immediately after the sexual assault for intact sperm cells to still be present, which can result in the loss of tails even before collection.



References:

- 1) Greenfield, A., & Sloan, M. A. (2003). Identification of biological fluids and stains. Forensic Science: an Introduction to Scientific and Investigative Techniques, 261-271.
- 2) Gaensslen, R. E. (1983). Identification of Semen and Vaginal Secretions. Sourcebook in forensic serology, immunology, and biochemistry (pp. 149-154). US Department of Justice, National Institute of Justice.
- 3) Baechtel, F. S. (1988). The identification and individualization of semen stains. Forensic science handbook, 2, 347-392.
- 4) Morrison, A. I. (1972). Persistence of spermatozoa in the vagina and cervix. British Journal of Venereal Diseases, 48(2), 141.
- 5) Davies, A., & Wilson, E. (1974). The persistence of seminal constituents in the human vagina. Forensic science, 3, 45-55.



Purnima Bokka

Sworn to before me this 24 day of June 2018.



Notary Public



Karen Hope Bennett  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. #7512687  
My Commission Expires  
May 31, 2019

6-21-19

# Exhibit 25

County of Snohomish

State of Washington

**AFFIDAVIT OF KEVIN GANNON**

My name is Kevin Gannon, I am over the age of 18 and otherwise competent to give this affidavit.

1. I am a founder of Nationwide Investigations, an agency that provides pro bono consulting and investigative services in missing persons and homicide cases. I retired from the New York City police department (NYPD) in 2001 after 20 years of service. Since my retirement, I have provided pro bono service evaluating suspicious deaths for families who have lost loved ones and I have also written a forensics textbook ("Case Studies in Drowning Forensics") with my partners Dr. D. Lee Gilbertson and NYPD Detective Anthony Duarte. In addition to my work with Nationwide Investigations, I have consulted and appeared on television programs dealing with criminal investigation.
2. I retired from the NYPD at the rank of Sergeant in the Detective Bureau. At the time of my retirement, I worked as a supervisor in the Homicide Taskforce/Nightwatch. Prior to my work on the Homicide Taskforce, I was a supervisor in the Rape Taskforce and the Missing Persons Squad. I have been awarded numerous commendations over my career including two medals for valor.
3. In my work on television, I recently participated in a Dick Wolf (Executive Producer of "Law and Order" and other television shows) true crime television show called "Dead Again" for the A&E network. In "Dead Again", myself and two other experienced police officers (Ret. Miami P.D. Det. Sgt. Joe Schillaci and active Chicago P.D. Det. Michelle Wood) were asked to re-investigate old criminal cases without prior knowledge of the ultimate outcome of the case. In conducting reinvestigations on the show, we have sometimes agreed with the outcome of the trial and other times we disagreed with the conclusions of the law enforcement investigation and the outcome of the trial.
4. While working on "Dead Again", I was given the autopsy and toxicology reports, crime scene photographs, and police reports relating to the investigation of the murder of Stacey Lee Stites. I was also provided with the Texas Department of Public Safety video that was recorded while they processed the body at the crime scene on April 23, 1996. I was given these materials on Tuesday, October 21, 2014. Upon review of these materials, I found that the evidence pointed to a murder that happened much earlier in the evening than what was described in the

police reports. This was apparent from the color of the body in the photographs. I also noticed lividity on the arm, shoulder and face that indicated that the body had been left in another position for several hours before she was left at the scene where she was found. When I reviewed the crime scene video, my conclusions regarding an earlier time of death were confirmed through the observable passing of rigor mortis. These forensic findings will be discussed in greater detail later in this affidavit.

5. I immediately contacted my partners Dr. D. Lee Gilbertson and NYPD Detective Anthony Duarte, who concurred with my assessment. I also discussed this evidence with Det. Schillaci and Det. Wood who also agreed that Stites could not have been murdered between 3 and 5 a.m. as reflected in the law enforcement documents. I then brought this information to the producer of the A&E show (Michael Sheridan), and we subsequently contacted Bryce Benjet, the Innocence Project attorney, and scheduled a meeting. At the office of attorney Bryce Benjet in New York City, I presented my analysis to him. This information was subsequently forwarded to Forensic Pathologist Dr. LeRoy Riddick who also concurred with our assessment. We (Benjet, Gilbertson, Duarte, and Gannon) had a telephone conference call with Dr. Riddick (November 5, 2014) and discussed all the specifics of the postmortem artifact evidence that we uncovered.

6. The forensic pathologist who testified at Reed's trial estimated the time of death to be about 3:00 a.m. The State's argument at trial was that Stacey Stites was abducted on her way to work, sexually assaulted, and murdered between 3:00 a.m. and 05:00 a.m. on April 23, 1996. In my professional opinion based on years of homicide investigation and law enforcement forensic training, as well as the consultation with other forensic experts including a forensic pathologist, the physical evidence at the crime scene and as described in written reports clearly demonstrate that the postmortem interval--relative to Stacey's time of death--is not consistent with the State's assertions regarding the timeline of events.

7. The factors relating to my conclusion were the presence of livor mortis, rigor mortis, and decompositional changes to the color of Stacey's body as viewed in the video and as described in the written reports. Livor Mortis (lividity) was observed both on the anterior and posterior portions of Stacey's body, which means that she was lying face down for a period exceeding 4 hours before being moved to the site where her body was eventually discovered. Rigor Mortis (rigidity): was starting to relent (leaving the body.) If Stacey was murdered at 3 a.m., she would be at the peak of rigor when the crime scene video was taken. Instead, the video shows some rigor, but that her head and arms are easily manipulated. Where the average temperature on April 23, 1996 was in the 60s (ranging from the low 50s to the high 70s), rigor would not be relenting at the time of the video tape unless

Stacey was killed well before midnight on April 22, 1996. Color changes on the body related to the decomposition process were evident in the video and described by Texas DPS reports as being green in color on Stacey's body. The color green first develops in the abdomen's Right Lower Quadrant within approximately 12 hours after death and spreads to the entire body within approximately 24 hours. Green coloration was evident on Stacey's upper torso her face as well as her lower extremities. This further supports my conclusion that she had been deceased longer than the timeframe proposed at Reed's trial and in the police reports. It is my professional opinion that she was murdered hours earlier--sometime between 7:00 p.m. and 11:00 p.m. on April 22, 1996.

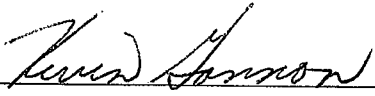
8. When investigating a murder, the last place the victim was seen should always be searched. This was not done here. The failure of law enforcement officers to take this basic step in the investigation of missing persons was especially devastating because the forensic evidence now indicates that the murder took place not long after Jimmy and Stacey were seen going up to their apartment.

9. In addition to the forensic evidence which indicates that the murder took place while Jimmy and Stacey were at home together, a number of other factors raise suspicion that Jimmy Fennell was the murderer:

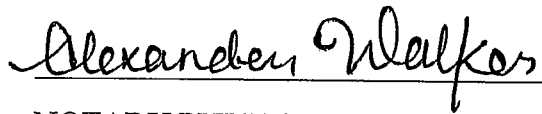
- The seatbelt of the truck was fastened as if the last driver had been sitting on top of the seat belt. It is common for police officers to sit on top of a fastened seat belt in their vehicle. Officers do this because they are often called upon to quickly exit their vehicles in an emergency. A seatbelt can impede a fast exit, so it is buckled to keep it out of the way and stop warning signal in the car. My experience is confirmed by statistics released by the California Commission on Police Officer Standards and Training indicating that roughly half of all police officers do not wear seatbelts.
- Stacey's fingernails are closely cut in a manner that I would not expect from a nineteen year old woman only a few weeks before her wedding. Strangulation involves a close struggle that provides the victim an opportunity to scratch her attacker and leave his DNA under her fingernails. In 1996, a police officer would be familiar with the fact that fingernail scrapings are taken during autopsy, and it is unlikely that a lay person would know to cut the fingernails of a victim to avoid detection.
- Certain aspects of the crime scene appear to have been staged in a manner that does not conform to a kidnapping/murder by a stranger. First, the placement of Stacey's name tag between her legs is direct evidence of a staged crime scene. The location of the two halves of Stacey's belt also

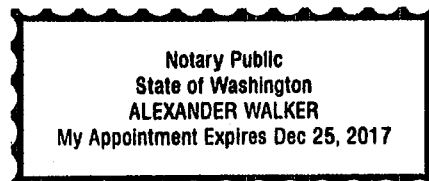
does not comport with a kidnapping murder by a stranger seeking to evade detection. It is unlikely if not impossible that Stacey's woven leather belt broke while it was used as a ligature. The force necessary to break a leather belt would have caused greater injury to her neck than was reported at autopsy. It is far more likely in my opinion that the belt was separated after the murder. One half of the belt was left at the side of the road in a position pointing towards the body. Especially where it was alleged that the murderer used the victim's shirt to wipe fingerprints from the truck at the scene, it is not plausible that the same person would have left the belt in this location unless he wanted the body to be quickly found. The same is true for the portion of the belt left outside the truck at the Bastrop High School. A murderer who had the forethought to wipe his fingerprints and lock the door of the truck would not leave such obvious evidence in plain view accidentally.

Further affiant sayeth naught.

  
Kevin Gannon

Sworn and subscribed to before me, this 11<sup>th</sup> day of February, 2015.

  
NOTARY PUBLIC



My commission expires: December, 2017.

# Exhibit 26

RODNEY REED                                 )     No. 8701  
  )     IN THE DISTRICT COURT  
vs.   )     21<sup>ST</sup> JUDICIAL DISTRICT  
STATE OF TEXAS                             )     OF BASTROP COUNTY, TEXAS  
  )

---

**AFFIDAVIT OF RODNEY REED**

1.     My name is Rodney Reed, I am over the age of 18, and otherwise competent to make this affidavit. I am making this sworn statement to provide the Court with facts explaining the presence of my DNA on samples taken from Stacey Stites and to give the Court additional information in support of my request for DNA testing in the case. I am innocent of Stacey's murder, and my lawyers have already provided the courts with proof of my innocence. Based on the facts that I know, and what I have learned about the power of DNA testing, I believe that the DNA testing requested in my motion is capable of proving my innocence and identifying Stacey's actual killer.

2.     I first met Stacey in October or November of 1995 in the game room in back of the Diamond Shamrock in Bastrop. It was in the afternoon, and I remember that there were pool tables and juke box in the game room. We started talking and played some pool. Later, we left the game room and went down to the boat dock by the river and talked some more. Afterwards, Stacey dropped me off at my house. We did not have a phone in the house, and I may have given her the number of the payphone at the Long's Market on the corner near my house. I often received calls at this phone.

3.     After spending the afternoon together, Stacey would occasionally stop by my house or the community center next door to see me or she would call the payphone at Long's. Sometimes we would see each other twice in a week, and sometimes a couple of weeks would go by without seeing each other. My mother sometimes would see Stacey when she came by my house looking for me.

4.     When Stacey and I hung out, we would often go to a gazebo in Bastrop State Park or another spot near a pond in the park. Sometimes we would meet at a bar called Ray's Place that was down the street from my mom's house. A couple of times we went to Linda Kaye Westmoreland's house. We only had sex a handful of times either at the Bastrop State Park, at my mom's house, or at Linda Kaye Westmoreland's house.

5.     Stacey told me that she was dating a police officer on the second or third time we went out. I don't remember when, but at some point I learned from her that his name was Jimmy Fennell. Later, Stacey told me that Jimmy wanted to marry her. This did not bother me because



I was also seeing other women. Neither of us thought of our relationship was serious, and we were both dating other people. I don't remember meeting any of Stacey's friends during the time we were seeing each other, except for James Robertson. I knew James Robertson and would sometimes hang out with him at the community center near my mom's house.

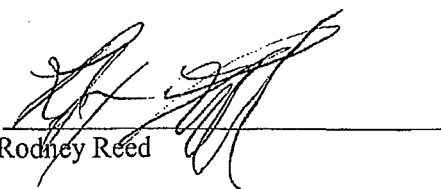
6. Less than a month before Stacey was murdered, I was threatened by Jimmy Fennell. I was walking at night on the north end of Bastrop with my cousin Chris Aldridge. A Bastrop Sheriff's deputy car pulled up to us. There were two white men in the car. When the man in the passenger seat came out, I recognized him as Jimmy Fennell. I was not sure who the man driving the car was, but he was larger than Jimmy, was wearing a uniform, and could have been Curtis Davis. Jimmy said, the he knew I was messing around with his girl and that "I was going to pay." I do not know how Jimmy would have figured out I was seeing Stacey. The only connection that I can think of is that I was also dating Michelle Castillo, and her brother Randy Castillo was in the same police academy class as Jimmy Fennell. I saw Stacey a week or so after Jimmy Fennell threatened me and told her about it. She told me that, if Jimmy catches us, he would kill her.

7. The last time I saw Stacey was either very late Sunday night on April 21<sup>st</sup> or very early Monday morning on April 22<sup>nd</sup>. Stacey came by the community center by my mom's house where I often hung out. She picked me up and drove to the Bastrop State Park. We had sex at the park, and then Stacey dropped me off around 3am at the corner of Linden and Main Street in Bastrop before she went to work.

8. I didn't hear that Stacey had been murdered until Thursday or Friday of that week. I was either at my mom's house or my cousin Shonte Reed's house when someone told me about the murder. But I didn't really believe it until I saw it on the news. I immediately suspected that Jimmy Fennell had killed Stacey, but I did not go to the police about this. I knew Jimmy was a police officer with many friends in Bastrop. I did not want to get involved and was afraid that I would become a suspect if I told the police that we had been dating. Jimmy Fennell had also threatened me, and if I came forward I was concerned Jimmy Fennell would retaliate. For the same reason, I denied even knowing Stacey when I was arrested on a drug charge in 1997 and questioned about Stacey's murder.

My name is Rodney Reed, my date of birth is December 22, 1967, TDCJ# 999271. I am presently incarcerated at the Polunsky Unit, in Livingston, Texas which is in Polk County. I declare that the foregoing is true and correct.

Executed on this 21<sup>st</sup> Day of November, 2014.

  
Rodney Reed

# Exhibit 27

CAUSE NO. 8701

73/35

THE STATE OF TEXAS      X      IN THE DISTRICT COURT OF  
VS.                              X      BASTROP COUNTY, TEXAS  
RODNEY REED                      X      21ST JUDICIAL DISTRICT

---

REPORTER'S RECORD  
PRETRIAL HEARING

---

September 5, 1997

**FILED IN**  
COURT OF CRIMINAL APPEALS

SEP 9 1998

Troy C. Bennett, Jr., Clerk

VOLUME 5 OF 69

ORIGINAL

## 1 APPEARANCES:

2 For the State

3 Mr. Charles Penick  
4 District Attorney  
5 Bastrop County Courthouse  
6 Bastrop, Texas 78602  
7 SBOT #015748500  
8 (512) 321-2244

9 Mr. Forrest Sanderson  
10 Assistant District Attorney  
11 Bastrop County Courthouse  
12 Bastrop, Texas 78602  
13 SBOT #17610700  
14 (512) 321-2244

15 Ms. Lisa Tanner  
16 Assistant Attorney General  
17 P. O. Box 12548  
18 Austin, Texas 78711-2548  
19 SBOT #19637700  
20 (512) 463-2170

21 For the Defendant

22 Mr. Jimmie L. Brown, Jr.  
23 Attorney at Law  
24 Suite 200  
25 711 W. 7th Street  
Austin, Texas 78701-2742

On the 5th day of September, 1997, the above  
entitled and numbered cause came on for hearing before  
said Honorable Court, Harold R. Towslee, Judge  
Presiding, and the following proceedings were had:

1	<u>CHRONOLOGICAL INDEX</u>	
2	<u>WITNESS</u>	<u>PAGE</u>
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6	<u>Sandra Sue Hunter Reed</u>	
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12	Direct Examination by Mr. Brown	29
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ALPHABETICAL INDEXWITNESS PAGEKeenor, Elizabeth

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Reed, Sandra Sue Hunter

Direct Examination by Mr. Brown 16

Cross-Examination by Ms. Tanner 19

Redirect Examination by Mr. Brown 27

1           sir. Go ahead, ma'am.

2       Q.   (BY MS. TANNER) But you and your family, you  
3           hired Mr. Brown?

4       A.   Right.

5       Q.   All right. And to your knowledge, did your  
6           son, the defendant, know Stacey Lynn Stites?

7       A.   Yes, I know he did.

8       Q.   He knew her?

9       A.   Yes.

10      Q.   Okay. And to your knowledge, how did he know  
11          her?

12      A.   Well, Rodney is like a little Casanova, he had  
13          a lot of girlfriends.

14      Q.   And so it's your testimony that --

15      A.   And so --

16                               MR. BROWN: Objection. She's  
17                               not allowing the witness to answer the  
18                               question.

19                               THE COURT: Okay. Let her  
20                               finish the answer.

21                               Go ahead, ma'am, finish your answer.

22      A.   -- and so I know her by seeing her pick him  
23          up, it's just as simple as that.

24      Q.   (BY MS. TANNER) So Stacey Stites, the young  
25          lady that was --

- 1 A. Right.
- 2 Q. -- has picked him up?
- 3 A. Yes, at my house.
- 4 Q. At your house. How many times has that
- 5 happened?
- 6 A. I don't count.
- 7 Q. You don't count?
- 8 A. I don't count.
- 9 Q. Do you remember what she was driving?
- 10 A. A little maroon pickup.
- 11 Q. And was that close in time to when she died or
- 12 a long time before that?
- 13 A. Close in time. I mean, and long before that.
- 14 Q. Did she pick him up from your house in the
- 15 daytime or night?
- 16 A. Day, night, anytime.
- 17 Q. And were they dating?
- 18 A. I don't know.
- 19 Q. Did it appear to you from what you were able
- 20 to observe that they were dating?
- 21 A. I don't know.
- 22 Q. You don't know?
- 23 A. Because like I said, he had four or five
- 24 friends that would pick him up. He don't have
- 25 a car. I mean, he didn't drive, and he didn't



1 have a car, so they would pick him up.

2 Q. And you're saying that Stacey Stites, you  
3 recognize her as one of the people that would  
4 pick him up regularly?

5 A. I wouldn't say regularly, because he had four  
6 or five.

7 Q. Okay.

8 A. But I know she has been to the house..

9 Q. Has she come in your house?

10 A. No.

11 Q. Have you ever -- had you ever visited with her  
12 when she came to your house?

13 A. No, only to say he's not there.

14 Q. So she would come up to your door and ask for  
15 him?

16 A. Yes, but only to say he wasn't there.

17 MS. TANNER: No further  
18 questions.

19 MR. BROWN: A couple of  
20 questions.

21

22 REDIRECT EXAMINATION

23 QUESTIONS BY MR. BROWN:

24 Q. On the issue of hiring counsel -- now, with  
25 regard to the funds to do that with, how much

1 money, to date, have you paid me?

2 A. So far, \$2400.

3 Q. And are you well below that which was  
4 requested?

5 A. Yes, you requested 5,000, and, you know, I was  
6 going to try to get that up.

7 Q. But how much was totally requested?

8 A. Oh, 78,000.

9 Q. Thank you.

10 THE COURT: What was the  
11 number? Seven or eight?

12 MR. BROWN: No, 78.

13 THE WITNESS: 78,000.

14 THE COURT: Thank you. I  
15 didn't understand it. Go ahead, sir.

16 Q. (BY MR. BROWN) And have y'all been able to  
17 secure that?

18 A. No.

19 Q. Thank you.

20 THE COURT: Do you pass her?

21 MR. BROWN: Yes, I pass  
22 her.

23 MS. TANNER: No further  
24 questions.

25 THE COURT: That'll be all,

# Exhibit 28

County of Alameda)

)

State of California )

### **AFFIDAVIT OF ALICIA SLATER**

Alicia Slater, of lawful age, being duly deposed and sworn states that:

1. My name is Alicia Slater, I am a resident of Alameda County, California, I am over the age of 18 and otherwise competent to give this affidavit. I am originally from Cedar Creek, Texas and my maiden name is Alicia Griesemer.
2. In 1995 and 1996, I was employed part-time at the HEB in Bastrop while I went to high school. I worked as a bagger and would collect shopping carts from the parking lot. I worked at the HEB until I graduated Bastrop High School May of 1996. I moved to Austin almost immediately after I graduated and never returned to Bastrop County to live. I moved to California permanently in 2003 and had lived there for a year in the late 1990's.
3. In the summer of 1995, I was working in the HEB parking lot collecting shopping carts. I was approached by a man in his thirties who asked me for my phone number. When I refused, he grabbed my arm and tried to pull me towards his blue Chevy Suburban. I knocked his hand away, screamed and ran to the front of the parking lot. A co-worker named Chuck heard me scream and ran after the truck. The truck ran the red light at the intersection and drove off. No one was able to get the license plate because it was blacked out. I reported the incident to the store manager, and I eventually was interviewed by the Bastrop Police. Sometime after Stacey's murder, but before I left Bastrop, I was interviewed again about the incident in the parking lot. I don't remember who interviewed me, but I understood it to be related to the investigation of the murder of Stacey Stites. Since that time, I have seen photographs of Rodney Reed on the internet. I am certain that the man who tried to abduct me was not Rodney Reed. I have been provided with a copy of the police report from this incident which is attached to this Affidavit. The attached report contains my statement given to the police at the time and accurately describes the incident.

4. I met Stacey Stites when she came to work at the Bastrop HEB. She was very friendly and close to my age. Sometimes, when we were working at the same time, we would eat lunch together in the break room.
5. On one occasion when Stacey and I were eating together in the break room, she talked to me about her relationship with her fiancé. She was talking about her engagement ring and that she was not excited about getting married. She told me that she was sleeping with a black guy named Rodney and that she didn't know what her fiancé would do if he found out. She commented that she had to be careful. I was taken aback by this because I didn't know Stacey that well and was surprised that she would confide in me. I cannot remember when this conversation took place, but it was within a few months of Stacey's murder and could have been only a few weeks before. I did not know Jimmy Fennell or Rodney Reed at the time, and have never met either of them since.
6. I remember that some people at the HEB thought that Stacey's fiancé Jimmy Fennell committed the murder. I didn't tell the police what Stacey had told me because I did not want to get involved. I knew Jimmy Fennell was a cop and didn't trust the police in Bastrop. After I graduated high school, I wanted to get out of town. If I said something to accuse a police officer, I was afraid there would be repercussions for my family.
7. Although I had heard that Rodney Reed was convicted of the murder, I didn't really follow the case. I don't remember telling anyone about the information that Stacey shared with me. However, I recently mentioned this to my childhood friend Velma Gonzalez who remembered me telling her about it soon after Stacey murder. She recalled that I told her that Stacey informed me that she was having an affair with a black dude. I thought that the relationship between Rodney Reed and Stacey was common knowledge, that everyone knew. I remember that in 2003, a friend from Bastrop brought up the case and said that she heard I knew Stacey. I did not tell her anything about what I knew. I kept this to myself because, at the time, I had just moved to California, had just gotten married, and had started a new job. I thought that if I said something, that I would have to come back to testify in Bastrop.

8. On November 22, 2014, I read a Facebook post about the Reed case from KXAN and found out that he was scheduled to be executed. The first thing I did was called KXAN and other news media that covered the case to find out who I could talk to provide the information I knew. I also called the Bastrop County DA's office but don't recall leaving a message. I also sent an email to a person named Gayle Wilhelm at Bastrop County explaining what Stacey told me and providing additional information about the case that I had since read on the internet. I got no response to my e-mail. Ultimately, my friend Heather Pritchard, who has been following the case, gave me the name of Bryce Benjet, Rodney Reed's lawyer at the Innocence Project and a filmmaker Ryan Polonski, who did a film about the case. I contacted both of them and told them what I knew.
9. When I saw in the Facebook post that Rodney Reed had an execution date, I realized that it was now or never. I didn't track the case before and didn't realize the importance of what Stacey had told me. When I read about the case on the internet, I learned that an important issue has been whether Stacey and Rodney were in a consensual relationship. Based on this, it became clear that what Stacey told me in the break room at the HEB needed to be made public. I felt morally compelled to tell someone that Stacey herself told me that she was sleeping with Rodney. I felt that it would be terrible if the wrong person was executed for Stacey's murder and I had never come forward with this information.

10. I declare under penalty of perjury that my statements in the above numbered paragraphs 1-9 are true and correct.

Further affiant sayeth naught.

*Alicia Slater*

Alicia Slater

Dated: December 15, 2014

Subscribed and sworn to, before me, a Notary Public, this \_\_\_ day of December 2014, by Alicia Slater who is personally known to me or has shown adequate identification:

---

**Henry Public**

**PROOF OF EXECUTION BY A SUBSCRIBING WITNESS**

State of California )

County of San Francisco )

On December 15, 2014, before me, the undersigned, a notary public for the  
Date

State of California, personally appeared Hannah Gilson, personally  
credible witness's name

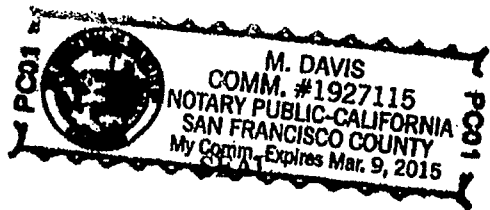
known to me and providing satisfactory evidence, who is known to be the person whose  
name is subscribed to the within instrument, as a witness thereto, who, being by me duly  
sworn, deposed and said that he/she was present and saw/heard acknowledged

Alicia Slater, the same person described in and whose name  
name of principal

is subscribed to the within and annexed instrument in his authorized capacity as a party  
thereto, execute the same, and that said affiant subscribed his/her name to the within  
instrument as a witness at the request of Alicia Slater.  
name of principal

WITNESS my hand and official seal.

[Signature]  
NOTARY PUBLIC SIGNATURE





# Exhibit 29

STATE OF TEXAS

COUNTY OF BASTROP

AFFIDAVIT

LEE ROY YBARRA, being first duly sworn, appeared before the undersigned authority duly designated to administer oaths and states as follows:

1. My name is Lee Roy Ybarra. I am a resident of Bastrop, Texas. I am over the age of 18 years and do hereby declare that I am competent to give this affidavit. No promises or agreements have been made to me in exchange for this statement, and I do not expect any in the future. This affidavit is based on my personal knowledge and the following facts are true and correct to the best of my knowledge:
2. I was employed at the HEB grocery store located at 104 N. Hasler in Bastrop, Texas in 1996. During the course of my employment I met Stacey Stites, a nice personable young lady who also worked at the store as a checker and then moved to the fruits and vegetables department.
3. There were several times that I would see Stacey talking with a young black man inside the store. I did not know his name but I would notice that her demeanor changed whenever he came around. She seemed happy to see him and would be in a good mood.
4. I remember this man because some times they were close enough that I got a very good look at him. I remember him because I used to think that this was not a very attractive black man and she on the other hand was a very pretty young lady with a good personality. I couldn't understand what she saw in him but I guessed that if he made her happy, nothing else mattered.
5. I knew that Stacey was engaged to a police officer at the same time that she was seeing this same black man and I recall that the few times that Stacy's fiancée entered the store to visit her, she would become a nervous wreck. I know that there were times that Stacey would deliberately hide so that she didn't have to talk to him. I just thought that it was a strange relationship.
6. I left my employment with HEB about two weeks before the murder of Stacey Stites. I took a short vacation and when I returned I found out about Stacey's death. Much later I read a newspaper article about Stacey's death and saw the photograph of the black man who was accused of her murder. I quickly said to myself that this is the same black man who used to visit her at the store. It was then that I found out that the man's name was Rodney Reed.
7. I did not read anymore news articles about the death of Stacey Stites because I have rarely taken the time to read newspapers or to watch the news. I don't know what happened

between the two of them but I thought that it was a sad thing because they looked pretty happy when they were together. I just thought that it was a terrible tragedy.

8. At the time of Rodney Reed's trial or prior to his trial no one from the prosecution or defense team contacted me. If anyone had asked, I would have gladly told them what I knew about Stacey Stites and Rodney Reed. I was recently interviewed by a television crew about my knowledge of Stacey Stites and Rodney Reed. As in this affidavit, everything that I told the television crew is true to the best of my recollection.

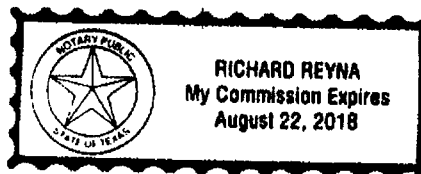
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and ability.

Veeray yBana  
Signature

COUNTY OF BASTROP  
STATE OF TEXAS

Subscribed and SWORN before me in the jurisdiction aforesaid, this 15<sup>TH</sup> day of JANUARY 2015

Richard Reyna  
Notary Public's Signature  
My commission expires: August 22, 2018



# Exhibit 30

**AFFIDAVIT OF CALVIN "BUDDY" HORTON**

THE STATE OF TEXAS           §  
  §  
COUNTY OF BASTROP         §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Calvin "Buddy" Horton, known to me to be the person whose name is subscribed to this Affidavit, and who, being duly sworn on his oath, deposed and said:

1. My name is Calvin "Buddy" Horton. I am over twenty-one years of age and am fully competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct. Currently, I live in Red Rock, Texas.

2. When my cousin Stacey Stites ("Stacey") was 16 years old, she and her mother moved in with my parents, Janice and Ray Horton, in Rosanky, Texas—less than a mile from where I lived with my wife Camille Horton and our three young children, Jaymi, Whitford and Steven, at the time. I traveled to Corpus Christi around this time to help Stacey and her mother Carol move their belongings into a storage facility in the Bastrop area.

3. I understood from speaking with my parents that Stacey's mother was concerned that Stacey had begun dating and associating with men at an early age—including black men—that Stacey had gotten pregnant, and that her mother decided to move after Stacey's pregnancy. My father told me that Carol was concerned about the influences in Stacey's environment in Corpus Christi and wanted to leave.

4. Stacey and Carol lived with my parents for approximately two months, but within that time, my mom and father informed me that some of Stacey's traits from Corpus Christi resurfaced. According to them, she would continue to see men, was disobedient and would leave the house at-will. Because of this, my dad asked my mom and wife to seek out more suitable housing for them. Eventually, my wife and my mother found a home in Smithville for Carol and Stacey to live. As I had done before, I helped Stacey and her mother move. This time I moved their belongings from the storage facility to the Smithville home, where they stayed until they moved to Bastrop.

5. One Sunday evening, around five, or six o'clock in 1995, two of my young children, Jaymi and Whitford, and I went to the Dairy Queen in Bastrop to get some ice cream. I remember they were young at the time—both were under the age of ten. I also remember it was a warm day, but the weather was not hot or humid as is typical in Texas summers. I believe it was sometime between October and November. At that time in my life I worked as a carpenter and did not get Saturdays off. The only day I would have been able to take them for ice cream would have been on a Sunday.

6. As I pulled into the Dairy Queen in the Ford pickup I was driving at the time, with my children inside, I remember seeing Stacey coming out of the Dairy Queen

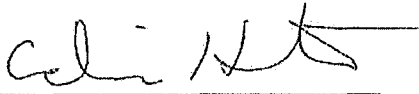
with a black man. I hollered her name to get her attention as I drove in, but she did not respond. I know they heard me because both Stacey and the black man looked directly at me, but neither came toward me. I have a rather loud voice; I easily project and rarely have a difficult time being heard.

7. Seeing Stacey with a black man did not surprise me because I remembered what my parents told me about her dating and associating with black men. Stacey, however, was shocked; she seemed embarrassed when she saw us and she quickly left with the black man without introducing me. Stacey and the black man got into a darker colored car that Stacey was driving, and they drove off without speaking to me or my children. I told my father of this incident, but to me it was not a big deal at the time because I had been told that Stacey associated with black men.

8. Sometime after Stacey's death I remember seeing pictures of Rodney Reed on the news and in the newspaper after he became a suspect in the death of my cousin. Rodney Reed is the same man I saw with Stacey at the Dairy Queen in 1995. I understand that the appeals courts have previously said that there were no credible witnesses that would testify as to having seen Rodney and Stacey together. I would have testified to my experience at the Dairy Queen in 1995 at trial, but no one ever approached me to do so. Since then, I have told other members of my family and would have told law enforcement and prosecutors the same had they interviewed me or shown any interest.

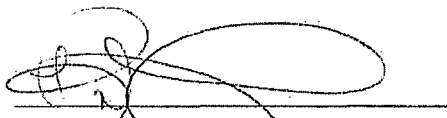
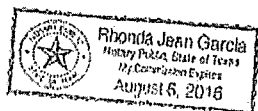
9. Because of this information, and Stacey's behavior at this time in her life, I have always believed Mr. Reed's story that he had a relationship with my cousin Stacey—despite the unfortunate pain it brings upon my aunt Carol. I do not wish to cause her, or my family, any more pain. I simply want to bring this truth to light.

Further Affiant sayeth not.



Calvin "Buddy" Horton

Subscribed and sworn to before me this \_\_\_ day of March, 2015, to certify which witness my hand and official seal.



Notary Public in and for  
the State of Texas

# Exhibit 31

DRS PRODUCTIONS

"DEATH ROW STORIES"

INTERVIEW WITH CURTIS DAVIS

MEDIA ID: THS\_62415\_09.OGG

TC\_16\_25\_11\_20160414\_DAVIS\_1,

TC\_16\_58\_18\_20160414\_DAVIS\_2

MALE #1:

16:25:36:00 Tell me your name and what your title is?

CURTIS:

16:25:41:00 My name is Curtis Davis. I work at the Bastrop County Sherriff's office as a Criminal Investigator.

MALE #1:

16:26:18:00 So take me back with you to the mid nineties and tell me what Bastrop was like.

CURTIS:

16:26:25:00 Bastrop back there in the mid nineties was very uh, a rural type of setting. Uh, we were basically the-the room and board for Travis County. Uh, people came and lived there and then worked in Travis County, for the most part Austin. And uh, so there wasn't a lot to even do. Matter of fact the only restaurant that was open 24 hours there in Bastrop at the time was the Water Burger. And uh, the Pig Grill and uh, so uh, those are the only two things that you had a choice of if you were working nights in



Bastrop County because those were the only two things open.

CURTIS:

16:27:05:00 All the other convenience stores and everything closed down overnight. So uh, to kind of give you a setting of the idea that's behind what was a available back there it was large ranching, farming community, rural type living, rural type subdivisions and uh, that was pretty much the makeup of the 1990s of Bastrop.

MALE #1:

16:27:28:00 Do you know what the- I mean they call it the Lost Pines Region and I, uh- This is a test. I'm just curious if you know what uh, Lost Pines are?

CURTIS:

16:27:37:00 Lost Pines would be that you're driving on the highway and all of a sudden there's a bunch of lo-lost pines. There's a bunch of trees that just kind of seemed like they didn't quite belong and it would be the-the pine trees of that area. And uh, so that's pretty much where the Lost Pines came from.

MALE #1:

16:27:54:00 Hmm. So when did you get involved in uh, the police force. I mean you were in

CURTIS:

16:59:53:00 Sheriff's office.

MALE #1:

16:59:54:00 Sheriff's office.

CURTIS:

16:59:54:00 Mm-hmm.

MALE #1:

16:59:55:00 Um, did he tell you anything about the night before what he was doing?

CURTIS:

17:00:04:00 Not then. When-when Jimmy-when Jimmy talked to me about the night before and some of the things that had-had let up to her leaving that morning to go to work, um, that was pretty much after the fact. It was after we were trying, and when I say after the fact, I'm talking about once we'd gone and seen the truck. Um, he was basically excused. He was told, "Look. You need to go wait. We're-we're gonna be looking. We're gonna be searching for her. We will find her." And we're police officers. We know that's what they're gonna tell us. We knew that's what they wanted us to do and we knew not to check their authority.

CURTIS:

17:00:45:00      So pretty much we did. We went back to-to Giddings, and uh-uh, went back to his apartment, and at that point is when he started talking about some of the things that had happened the night before. Um, he... It's the first time I really sensed that he was having some kind of blame. He blamed himself for allowing her to drive to work that morning because he had said that he had actually been driving her to work; that way he can keep the truck. He can go pick her up later. Whatever their little arrangement was, but I remember him making comments about he should have got up out of bed and drove her to tr- drove her to work that morning. He said otherwise she wouldn't be missing.

MALE #1:

17:01:33:00      So why didn't he?

CURTIS:

17:01:36:00      The night before, based on what he told me, uh, they- him and a couple of the other police officers, I believe, that were part of a little league coaching group uh, had consumed a little bit of alcohol. Uh, I won't say they were drunk 'cause that's not what he said, but they had drank a few beers after practice and uh, those beers were consumed in and around his vehicle, and uh, that uh, brought the truck back home that

this. Their-their sleeping arrangements were based on uh, his job being shift work and now her job being shift work of an early hours and stuff. So they were kind of passing in the wind sometimes, you know, because of the way that they were working, but yet, um, for him to get up in the morning, that was mentioned to me that he was driving her to work so that he could have the truck, but every day I can't answer that 'cause I don't know for a fact that's true.

MALE #1:

17:03:40:00      Yeah, I don't mean to uh... It's not- it's more of what happened that morning.

CURTIS:

17:03:44:00      Yeah.

MALE #1:

17:03:44:00      You had told me when I talked to you on the phone.

CURTIS:

17:03:45:00      Yeah.

MALE #1:

17:03:47:00      That he said, uh, that he didn't wake up when she left because he had had a few beers.



night. Um, I don't know how- what time. I mean uh, if somebody was to ask me a direct question about what time they got home that night, I couldn't answer that 'cause I don't know that I was ever told. But it was later that night after practice.

CURTIS:

17:02:18:00 So um, I would assume definitely 10:00'ish, 11:00 maybe at night. You know, after he powered around with the guys a little bit. Plus his whole reasoning for necessarily not coming straight back home was Stacey was asleep. She would go to bed at 9:00, 8:00. 9:00 at night in order to get ready for the shift the next morning. So he didn't want to disturb her. That was kind of their sleeping arrangement. You know, didn't want to just come in and disturb her. And so that was part of the other reason why he said he didn't come home, you know, uh, earlier than he did. So...

MALE #1:

17:02:54:00 And uh, did he normally wake up when she left for work? And if he didn't that morning, why not?

CURTIS:

17:03:01:00 Well, and to ask me if-if uh, they- he normally woke up to take her to work, uh, I guess the question would be answered like

CURTIS:

17:03:51:00 Yeah, he'd had a few beers.

MALE #1:

17:03:52:00 That's all. So just do me a favor and tell me that.

CURTIS:

17:03:55:00 Yeah, uh, and basically the reason why he didn't get up the next morning whether it was because of uh, her wanting to allow him to sleep further because she knew that he'd had a few beers the night before or he slept in because he had a few beers the night before. Whatever the decision was made, ultimately she drove herself to work that morning.

MALE #1:

17:04:13:00 And, uh, describe to me the scene where you were with Jimmy uh, when you found out that her body had been found. [CLEARS THROAT]

CURTIS:

17:04:42:00 When we discovered that her body had been found, that Stacey had been found, um, me and Jimmy were actually upstairs in his apartment. Um, he was basically laying on a beanbag on the floor, on the big bean bags, and I was sitting on a chair, and we were just talking about police stuff. Trying to-trying to think about something else for

right now, and I kept telling him every time he'd go back to the topic of her, "They're gonna find her. She's gonna be okay, and we'll deal with whatever has happened to her. We'll deal with it." And I just kept telling him that and reassuring him that. And this went on for a little while. I don't remember how long.

CURTIS:

17:05:27:00 We were actually in the-the room together, but uh, there was a knock at the door. I answered the door and, if I recall right, it was the chief deputy for Lee County; a guy by the name of Rodney Meyer, who is now the sheriff. Looked down and I could see that there was other police officers in the grassy area of the apartment, and there was cop cars from Bastrop. There was investigators from Bastrop. The Texas ranger was there. Rocky Wardlow. Uh, there was another deputy there from Lee County, and we walked downstairs, and we got downstairs. I believe it was uh, Investigator Connor who walked up and told Jimmy, "We found her, and she's deceased."

MALE #1:

17:06:24:00 And how did he react? Do you remember?

CURTIS:

# Exhibit 32



**AFFIDAVIT OF RICHARD SCROGGINS**

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Richard Scroggins, known to me to be the person whose name is subscribed to this Affidavit, and who, being duly sworn on his oath, deposed and said:

1.     My name is Richard Scroggins. I am over twenty-one years of age and am fully competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit, and they are true and correct.

2.     In April of 1996, I, and two friends of mine, Clyde Reynolds and Michelle Robertson, went to have lunch at the Whataburger restaurant in Bastrop, Texas, that sits on Highway 71.

3.     Upon going inside the restaurant, I realized I had left a notebook in the car, so I exited the building to retrieve my notebook. Mr. Reynolds, Ms. Robertson and I had spent the morning researching genealogy, and I had taken some notes to which I wanted to refer during our lunch. After I retrieved the notebook and began walking back towards the entrance of the Whataburger, I saw a stocky-framed man with either a shaven head, or very little hair, wearing a black shirt and screaming at the top of his lungs to a young, attractive, white young lady who appeared to be in her late teens or early twenties.

4.     He was standing near a smaller model pick-up truck darker in color. I remember he was completely red in the face, yelling and calling her obscene and vulgar names. Repeatedly, as he would yell, he would start to walk toward the truck as though

he was finished, but overcome with anger, he would drift back towards her and continue his tirade. At one point, I visibly saw his fist shaking toward her. At another point he called her a "cheating, lying cunt." He also called her a "slut" and a "whore" during this encounter. The young lady merely stood there as he screamed at her, with her arms folded, a purse in one hand.

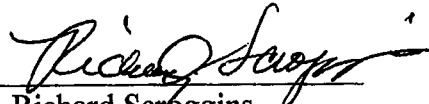
5. Several times, I heard the young lady try to calm him down by saying, "Can we please not do this here. This is where I work. Let's talk about this when we get home." It was to no avail. He was completely out of control and consumed with rage. Except for the obscene names he called her, I never heard them refer to each other by their first or last names.

6. Once I eventually made it back into the restaurant, I can recall being so shaken by the incident that one of my friends, Clyde or Michelle, asked me what was wrong with me. I told them what I had witnessed and the horrible verbal abuse. It has been almost 19 years, and I still remember the incident today. I never reported this incident – except to my friends – because I had not witnessed any physical violence and was not eager to get in the middle of what could have been a lover's quarrel.

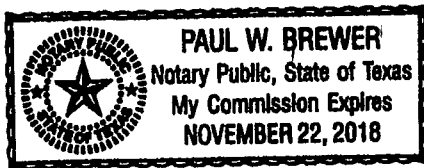
7. Between five to ten years ago, I remember reading articles in the Austin Chronicle regarding the murder of Stacey Stites ("Ms. Stites"). I remember seeing photographs of Ms. Stites and Jimmy Fennell in those articles. After seeing the photographs, I have had no doubt that these were the two individuals from the encounter of April 1996.

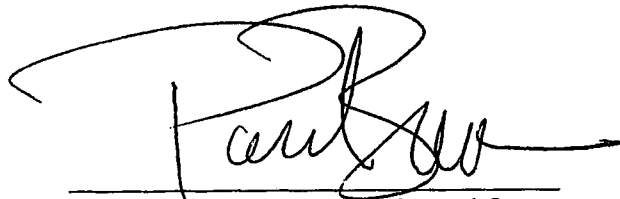
8. I came forward with this information just as soon as I realized that it might be relevant or helpful. Unfortunately, my two friends, Clyde Reynolds and Michelle Robertson, have since passed away.

Further Affiant sayeth not.

  
Richard Scroggins

Subscribed and sworn to before me this 10 day of February, 2015, to certify which witness my hand and official seal.



  
Notary Public in and for  
the State of Texas

# Exhibit 33

COUNTY OF LEE                    )  
  )       SS     Affidavit of Pamela Duncan  
STATE OF TEXAS                 )

Appeared before the undersigned authority duly designated to administer oaths, Pamela Duncan states on oath as follows:

1. My name is Pamela Duncan. I am a resident of Giddings, Texas. I am over 18 years of age and am otherwise competent to give this affidavit. No promises or agreements have been made to me in exchange for this statement, and I do not expect any in the future.

2. In 1996, I lived in Giddings, Texas, and was the manager of a convenience store (Circle K) in town. I knew Jimmy Fennell because he and another police officer used to come in to the store. In May, 1996, Jimmy started talking to me more when he would come by the store. While I never met Stacey Stites and had known nothing about her and Jimmy's relationship, after she was killed pretty much everyone knew that she had been Jimmy's fiancé. I guess people kind of felt sorry for him. Pretty soon after he started talking to me more in the store, he started showing up in his patrol car when my friend and I used to walk in the park, driving beside us while we walked so he could talk to me. It got to the point where he was showing up in the park a lot - almost every time my friend and I went walking. Looking back on that time, I know now that he was coming by the park on purpose, because he was trying to start something with me.

3. By August, 1996, Jimmy and I were officially "dating." Our relationship lasted 13 months. While he kept his own place, Jimmy pretty much stayed with me all the time.

4. Jimmy was a very quiet man, but I wouldn't call it a peaceful quiet. He was extremely possessive and jealous. For example, Jimmy was in the store once when a truck driver came in and was flirting. Truck drivers always flirted with us. Jimmy heard him and asked if he wanted a ticket. The guy asked me who the cop was and I told him he was my boyfriend. When the guy left, Jimmy followed him outside.

5. Jimmy and I hardly ever went out together. Mostly we would stay at my place, or hang out with Jimmy's officer friends, particularly David Hall and his wife. Jimmy and David Hall were really good friends. Jimmy never really talked much to me about Stacey. He wasn't a really talkative guy and after we had been dating a while he pretty much stopped talking altogether.

Page 1 of 3

FILED 3:30P  
DATE 4-7-06  
Catny Smith  
District Clerk, Bastrop County

107-

6. My friends were not comfortable with Jimmy and they stopped hanging around us, all except for one. He was not very friendly, and made my friends feel unwelcome. My friends also didn't think he treated me very well. He was very verbally hostile to me, called me some really unpleasant, mean names (describing me, my parents, and the fact that I had kids at a younger age), and would scream at me in public. He didn't like me going out with my friends, or doing anything apart from him.

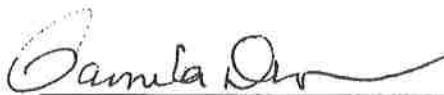
7. Jimmy was extremely prejudiced. Before we started dating, I used to get my hair cut by a black woman. After we started dating, he wouldn't let me go to her any more, because her salon was "across the tracks" and "white women don't go there." At one point I was considering hiring a black woman to work at the store, and Jimmy got really angry. He told me everything he thought about black people (he didn't say "black people"; he used the N-word) - that they were all bad, all on drugs, all crooks - and why I shouldn't hire her. I ended up hiring her and that was a big problem between us for a couple months.

8. I broke up with Jimmy in September of 1997. Jimmy stalked me for months after that - until he left Giddings altogether. He would drive by my house, night after night, and shine a spotlight into the house. It got so bad that I finally put tin foil up in my windows, to reflect the light. He would stand outside my house at night, screaming at me, calling me a "bitch" and other obscenities. He would come by my job at the Circle K, and just sit parked out front, with the headlights shining into the store. He would stay there, sitting in his car and watching me, for anywhere from two minutes to two hours. If the parking lot got crowded, he would leave, then come back when it emptied out again. Once he came into the store and wouldn't let me out of the office - we had to call the police to get someone to escort him out, so I could leave. He would hassle any guy I tried to date until it scared them away. For instance, I dated one guy who delivered beer in town. After we started dating, Jimmy stated pulling him over and giving him tickets. He got so many tickets he couldn't keep his job anymore.

9. What Jimmy did after I broke up with him really scared me. It made me feel like I knew what he was capable of, and that made me afraid for me and my kids. It made my parents afraid for my safety. The fact that he was a police officer made it that much more difficult. I felt like I was being constantly harassed and threatened, and there was nowhere to go. I finally filed a report with the police, and another officer came by and told me they would make sure he left me alone. A friend of mine later went down to the police station looking for the report I filed, and they couldn't find it. Things got better after I filed the report, and the officer came and talked to me, but the harassment didn't stop altogether until Jimmy moved away from Giddings.

10. I think of that time - the end of my relationship with Jimmy, and the time after we broke up when he was stalking me - as the worst time in my life.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and abilities.

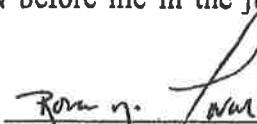


Pamela Duncan

STATE OF TEXAS

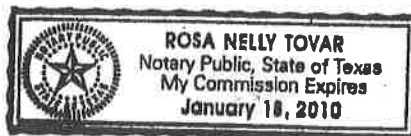
COUNTY / CITY OF LEE

SUBSCRIBED and SWORN before me in the jurisdiction aforesaid, this 6<sup>th</sup> day of April, 2006.



Notary Public:

My Commission Expires:



# Exhibit 34



**Williamson County Supplemental Report Case Number: C07-10-7001**  
**Sheriff's Office**

**Narrative:**

**PHONE CONVERSATION WITH KEITH TUBBS  
FORMER CO-WORKER OF AIDA FENNELL-SPOUSE OF JIMMY  
FENNELL**

On Tuesday 11/13/07 I, Detective J. W. Knutson #10041, received information that the wife of Fennell, Aida Solano Fennell, previously worked at the juvenile justice center. I contacted M. Loney who coordinates the law enforcement work at the JJC and asked if he knew the time frame that she worked there. I was informed that she quit during 2004 but while she worked her it had been rumored that her husband, Jimmy Fennell, and another employee at the JJC, Keith Tubbs, got into a verbal argument on the phone about Aida. I contacted Tubbs by phone at [REDACTED]. He advised that he did know Aida and did work with her at the JJC. He advised that they were friends but worked on different shifts. I asked about the incident where he and Jimmy Fennell had an argument and he advised that Jimmy had called and questioned him about calling his house which Tubbs says he did not do. He further advised that Jimmy began to ask if Aida was seeing someone at the JJC. During the conversation it was brought up that Aida had previously shown up at work with bruises on her face and claimed it was a result of being hit in the face by a phone when Jimmy became upset with her and threw a phone at her. Tubbs advised that Aida was nervous about Jimmy because he was jealous and had a temper and expressed concern about the death of his former fiancé in Giddings.

The conversation was recorded.

END OF SUPPLEMENT

JK10041

# Exhibit 35

## Evidentiary Search Warrant

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

To the Sheriff or any Peace Officer of Williamson County, Texas or any Peace Officer of the State of Texas, GREETINGS:

WHEREAS, the Affiant whose signature is affixed to the Affidavit attached herein is a Peace Officer under the laws of Texas and did heretofore this day subscribe and swear to said Affidavit before me (which said affidavit is by this reference incorporated herein for all purposes), and whereas I find that the verified facts stated by Affiant in said Affidavit show that Affiant has probable cause for the belief he expresses therein and established the existence of proper grounds for the issuance of this Warrant:

NOW, THEREFORE, you are commanded to enter the suspected place and premises described in said Affidavit and to there search for the property described in said Affidavit and to seize the same and bring it before me. And, you are commanded to arrest and bring before me each person described and accused in said Affidavit. Further, you are ORDERED, pursuant to the provisions of Article 18.10, Texas Code of Criminal Procedure, to retain custody of any property seized pursuant to the Warrant, until further order of this Court or until any other court of appropriate jurisdiction shall otherwise direct authority to remove such seized property from this county, if and only if such removal is necessary for the safekeeping of such seized property by you, or if such removal is otherwise authorized by the provisions of Article 18.10, Texas Code of Criminal Procedure. You are further ORDERED to give notice to this Court, as a part of the inventory to be filed subsequent to the execution of this Warrant, and as required by Article 18.10, Texas Code of Criminal Procedure, of the place where the property seized hereunder is kept, stored and held. Herein fail not, but have you then and there this Warrant within three days, exclusive of the day of its execution, with your return thereon, showing how you have executed the same.

ISSUED AT 4:13 o'clock P.M., on this the 30th day of October 2007, to certify which witness my hand this day.

  
District Judge, Williamson County, Texas



DEL-07-2507(144) 10:25

WILLIAMSON COUNTY DISTRICT CLERK

11/22/2009 10:25 AM

**Affidavit for Evidentiary Search Warrant****THE STATE OF TEXAS****COUNTY OF WILLIAMSON**

The undersigned Affiant, being a Peace Officer under the laws of Texas, and being duly sworn, on oath makes the following statements and accusations:

1. There is in Williamson County, Texas, a suspected place and premises described and located as follows:

An individual named Jimmy Lewis Fennell, Jr., who is described as approximately 5 foot, 10 inches, 200-225 pounds, blonde hair, date of birth December 25, 1972.

2. There is at said suspected place and premises property concealed and kept in violation of the laws of Texas and described as follows:

a. DNA

b. Finger and palm prints

c. head and pubic hair

d. police uniforms, vests, vest carriers, patrol utility belts owned by or issued to the Defendant, Jimmy Lewis Fennell, Jr.

3. Said suspected place and premises are in charge of and controlled by each of the following persons:

Jimmy Lewis Fennell, Jr.

4. It is the belief of affiant, and he hereby charges and accuses, that:

Jimmy Lewis Fennell, Jr. committed the offense of Sexual Assault and/or Official Oppression on or about October 26, 2007 in Williamson County, Texas.

5. Affiant has probable cause for said belief by reason of the following facts:

Affiant, Wade Knutson, is a peace officer who is currently employed at the Williamson County Sheriff's Department. Affiant has been a licensed peace officer for 4 years and is currently assigned to the criminal investigations division as a investigator.

On October 26, 2007, Affiant was asked to assist in an investigation of an allegation that Jimmy Lewis Fennell, Jr. sexually assaulted an adult female. The female victim has elected to use a pseudonym pursuant to Texas Code of Criminal Procedure Chapter 57 and has chosen the pseudonym name of "Amanda Smith". Jimmy Lewis Fennell, Jr. is a peace officer employed as a patrol sergeant with the Georgetown Police Department. Ms. Smith reported at approximately 1:30 a.m. on October 26, 2007 to the Williamson County Sheriff's Department that she had been sexually assaulted by a police officer, who has now been



CE-07-2007 (FRI) 12:55

WILLIAMSON COUNTY DIST. CLERK

(FRI) 12:55:00

P. 004/001

identified as Jimmy Lewis Fennell, Jr., at a location in Williamson County which she believed to be a park.

Ms. Smith told Affiant that the Georgetown Police Department had sent officers to a scene at an apartment complex in Georgetown where she was fighting with her boyfriend, and that while the officers were there an officer had put her in his patrol car. Ms. Smith's boyfriend was arrested and taken from the location, and an "Officer Fennell" had taken her from the apartment complex in his patrol car. Prior to being taken from the scene, Ms. Smith had been vomiting due to intoxication. Ms. Smith was handcuffed and allowed to ride in the front seat of the patrol car. Ms. Smith believed that the officer was going to take her to a hotel so that she would have a place to stay, since the people she had been staying with were friends of her boyfriend and would not answer the door at the apartment complex. "Officer Fennell" drove her to a location which she believed to be a park, stopped the patrol unit, and got her out of the car. Fennell unhandcuffed her and asked her to dance for him outside of his patrol unit, then had her place her hands on the trunk of his patrol unit, pulled down her pants, and penetrated her vaginally from behind with his penis. The defendant asked her if she liked it, she said no and asked him to stop, and he did not. When the officer was finished, he drove her back to the original apartment complex and dropped her off. The victim immediately reported the sexual assault by calling 911.

The victim has been shown a photo spread with a picture of Jimmy Fennell, Jr. in it and positively identified Fennell as the police officer who sexually assaulted her. The Georgetown Police Department has cooperated in the investigation and provided the patrol car driven by Fennell during that shift as well as all dispatch logs. Fennell is unaccounted for from just after midnight until 1:52 a.m. Furthermore, the processing of the patrol vehicle has shown the victim's prints on the trunk, which is consistent with the location where the victim reported the sexual assault occurred in relation to the vehicle. There is also an unidentified latent print from the trunk which is available for comparison.

A sexual assault nurse examiner performed a SANE exam on the victim on October 26, 2007 and has collected swabs from the victim's body which may be used for comparison purposes. Affiant knows from his training and experience that DNA evidence from a suspect may frequently be used to identify offenders in sexual assault cases.

Affiant knows from his training and experience that trace evidence, including comparisons of hair samples, is another valuable tool in the investigation of sexual assault cases. These items may include, but are not limited to hair, fibers, DNA or other evidence of a microscopic nature. The victim's clothing was also collected and will be processed for trace evidence. The clothing worn by the defendant can also be processed for trace evidence connecting him to the victim, if collected.

WHEREFORE, Affiant asks for issuance of a warrant that will authorize him to search said suspected place and premises for said property and seize the same.

  
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME by said Affiant on this the 30 day  
of October, 2007.

  
District Judge, Williamson County, Texas



Return and Inventory

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

The undersigned Affiant, being a Peace Officer under the laws of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the 31 day of October, 2007, by making the search directed therein and seizing during such search the following described property: retained by such Peace Officer, and kept, stored and held as hereinafter set out:

*See Attached*

725  
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on  
this the 15th day of Nov., 2007.

K. Adair  
District Judge, Williamson County, Texas



REC-07-2007(F41) 12:55 WILLIAMSON COUNTY DIST ATTY

(FAX) 29431251

P 006,007

Page 1 of 2

## WILLIAMSON COUNTY SHERIFF'S OFFICE

## RECEIPT FOR PROPERTY

Officer No. 20410-7001Date 10-3-07Time 1700h To 1800hPhysical Evidence ☒Personal Property ☐Recovered Property ☐Found Property ☐Name Collected from FINNELL, Simon Jr.Address 1420 CR 513 Granger, TX 76530

QUANTITY	NAME OF ARTICLE AND DESCRIPTION	SERIAL NO.
1	Paint Black Ballistic Vest in blue carrier	
1	Green GERT Baseball hat	
1	Black GTPD Baseball hat	
1	Pair Digicam Pants	
1	Pair Blue Cargo (BDU) Pants	
1	Blue T-Shirt - long sleeve "POLICE" in yellow on sleeve	
1	Pair Black Pants	
1	Blue Jacket - GTPD Insignia - Patrol Jacket	
1	long sleeve Digicam BDU shirt	
11 = ③	long sleeve Duty Shirt - Blue-Black	
1	Pair Class A Dress Pants	
11 = ③	Short sleeve Duty Shirts	
1	long sleeve Class A shirt	
1	Camo Pants (green) BDU Pants	
1	Camo Pants (green) BDU Shirt/Jacket/Pants	
1	BDU Pants - Olive Dark Green	
1	BDU Pants (Jacket/Short) - Olive Dark Green	
11 =	Dark Blue BDU style Patrol Pants	
1	unabolt - Black - vest	
1	Duty Belt with black Duty bag holster	
1	Duty Belt w/ Double Mag. Duty holster long with 1/2 in. life	
1	Belt & case, 2 hand with pouches of cables, 2 empty	
1	round case, 2 hand pouch Taser holster	
1	Blue Tie	
1	Pair BDU Patrol Pants	
4	Leather Knives	
1	Leather Key carrier Knife	
1	Leather Utility Knife	

Circumstances of release

Released to

Address

Released by

Rank

Approved by

Rank

RECEIVED THE ABOVE DESCRIBED PROPERTY

Signed

Address

Phone

Date



MICROFILMED 1-2

Page 2012

# RECEIPT FOR PROPERTY

Office No. 42412700

Date 10-31-67

Time 0420 hrs to 1056 hrs

Physical Evidence ( )

**Personal Property (\_\_\_\_\_)**

**Recovered Property (Continued)**

**Second Property (continued)**

Name Collected from Fennell, Jimmy Jr.

Address 1420 C2329 Orange NJ 07050

Circumstances of Release		Address	
Released by		Approved by	
Rank		Rank	

RECEIVED THE ABOVE DESCRIBED PROPERTY

Ref.	Address	Phone	Date
1	1000 N. 1st St. S.W.		

**MEMORANDUM FOR: DOD**



In the Matters before the July 2007 term of the  
Grand Jury in the 368th Judicial District Court  
of Williamson County, Texas



To Any Peace Officer of the State of Texas:

You are hereby commanded to summon the following person:  
Records custodian or Captain Earl Pence  
Giddings Police Department

to appear at INSTANTER or no later than December 4, 2007, at Room 204 of the Williamson  
County Justice Center, 405 S. Martin Luther King, Georgetown, Texas, then and there to testify as a  
witness before the Grand Jury for the July 2007 term of the 368th Judicial District Court of  
Williamson County, Texas.

Furthermore, you are commanded to produce before the Grand Jury the following:  
Any and all records, recordings, documents, or other materials related to the personnel file of  
Jimmy Fennell, including but not limited to any previous complaints made against Jimmy  
Fennell and investigated by the Giddings Police Department internal affairs division.

Herein fail not, and make due return hereof.

WITNESS MY SIGNATURE AND SEAL OF OFFICE ON THIS THE 31 DAY OF

December 2007

Lisa David, District Clerk

Williamson County, Texas

By: [Signature]

Deputy District Clerk

**Warning:** A subpoena relating to a grand jury proceeding or investigation must be kept  
secret to the extent and for as long as necessary to prevent the unauthorized disclosure of a  
matter before a grand jury. Violation of the duty to maintain secrecy is punishable as  
contempt of court.

The proceedings of a grand jury shall be secret. Any person unlawfully disclosing information  
obtained by the grand jury is subject to punishment for contempt. TEX. CODE CRIM. PRO.  
art. 20.02

Officer's Return

Executed on the 31 day of December, 20 07 by delivering a true  
copy of this subpoena to the witness named within.

Returned on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

[Signature]  
Executing officer's signature

# Exhibit 36

GOVERNMENT CODE  
§ 552.101GOVERNMENT CODE  
§ 552.108

Page 1 of 2

Main Form

CITY OF GEORGETOWN POLICE  
GEORGETOWN, TX

## Internal Affairs Investigations #7043913

Report Entered: 10/26/2007 04:22:46

Not For Public Release

Date/Time Printed: Wed Dec 12 15:52:35 CST 2007 By: marya

## Case Title

PUBLIC INTOXICATION

## Location

WATERS EDGE CIR

## Date/Time Reported

10/26/2007 02:17:00

## Date/Time Occurred

10/26/2007 02:17:00 to 10/26/2007 02:53:00

## Incident Type/Offense

PUBLIC INTOXICATION (00003200)

## Reporting Officer

ROGGENKAMP, T (6186)

## Approving Officer

AZAM (640)

## Persons

Role	Name	Sex	Race	Age	DOB	Home Phone	Address
------	------	-----	------	-----	-----	------------	---------

## Offenders

Status	Name	Sex	Race	Age	DOB	Home Phone	Address
--------	------	-----	------	-----	-----	------------	---------

DEFENDANT

FEMALE

## Vehicles

## Property

Class	Description	Make	Model	Serial #	Value
-------	-------------	------	-------	----------	-------

## Narrative

On 10/26/2007 I heard Sgt. Fennell requesting another Officer to Water's Edge. Upon arriving I made contact with Sgt. Fennell who advised that [redacted] was accusing him of sexually assaulting her, and asked me to talk with her and find out what was going on. I had assisted Officer Morris on a previous call of disturbance involving [redacted] (see Officer Morris report 07-43903). I observed Officer Sanford attempting to talk with [redacted] observed that [redacted] was on her cell phone and was walking up the stairs. I could hear [redacted] screaming and yelling that she had been raped.

Exhibit B

GOVERNMENT CODE  
§ 552.101

GOVERNMENT CODE  
§ 552.108

[REDACTED] I then advised her that since she had already ran from the apartment once and was causing a scene in the apartment complex that she was going to be arrested for public intoxication. [REDACTED]

[REDACTED] At that point I ended the conversation and she was transported to the WCSO Jail.

The video tape from my patrol car was placed into evidence along with the business card.

No further information.

Exhibit B

# Exhibit 37

**Williamson County Supplemental Report**  
**Sheriff's Office**

Case Number: C07-10-7001  
 Detective Marco A. Gomez

**Narrative:**

On 1-3-2008 Sgt. Bartz advised me of possibly a new victim in this case. She advised me to make contact with Detective R. Travis for information. I made contact with Detective Travis, he advised he was working a forgery case and was interviewing [REDACTED]. [REDACTED], he advised when he was done he handed her a business card of his. He advised [REDACTED] saw "Georgetown" on the card and she told him that she was raped by one of his Sergeants. He asked her what his name was and she advised him it was Sgt. Fennel. Detective Travis advised her that Fennel worked for the city of Georgetown not for the Sheriff's Office. Detective Travis called [REDACTED] so we could set up an interview. Detective Travis set up a meeting with her at the CVS pharmacy at FM 3406 and Chisholm Trail Dr. in Round Rock.

We went to the CVS pharmacy and met with [REDACTED]. She advised us she would go with us to the Sheriff's Office and talk with us.

At the beginning of the interview I advised [REDACTED] that the interview would be video and audio recorded, and she was free to leave at any time. She advised she understood. I began by asking her to give me her full name. She said it was [REDACTED], and her date of birth is [REDACTED]. She also advised that she still received mail at [REDACTED]. She advised of her cell phone number being [REDACTED]. She advised me that she was in a vehicle that was pulled over at the loop in Georgetown near some apartments. She described it as the apartments at Quail Valley and Leander Rd. She advised [REDACTED] her friend, was driving a "blue pinto" and another person was in the front passenger seat. She described him as a Mexican who was [REDACTED] boyfriend. She advised she sat in the rear seat. She advised they were pulled over by Sgt. Fennel. [REDACTED] said that he asked for everybody's ID cards and then asked them to get out of the car. She advised she knew then someone may have had a warrant.

[REDACTED] advised that she and [REDACTED] were asked to sit on the curb, while the boyfriend was placed in another unit that arrived shortly thereafter. [REDACTED] said she asked [REDACTED] if anything was in the vehicle. [REDACTED] told her there was "meth" in the car. [REDACTED] advised her that it was in the black bag. [REDACTED] advised that as soon as the bag came out of the car and it was placed on the roof of the car, [REDACTED] stood up and said that the bag belonged to her. [REDACTED] advised that [REDACTED] was placed into custody and placed in the second police car with her boyfriend, and "They drove off" [REDACTED] advised she was put into Fennel's car in the front seat. She said she was not placed in handcuffs. She advised that Fennel told her that he could take her to jail. She advised that Fennel made a motion for her to be quiet, and then he turned his recorder off. She said Fennel told her they were going to wait for the tow truck to pick up the vehicle. She said that they were going to his office, find a "lady officer" and do a

strip search. She told him OK because she did not want to go to jail. She said they then drove to the police station.

██████ said they arrived at the police station and pulled up to a curb and parked. She advised they walked into one door and then straight into his office. She described the office was just to the right as you walked passed through the open area. Fennel told her that a female officer could not be located. She said she told him that he could get 10 officers and they could watch the strip search because she did not want to go to jail. She advised Fennel left the room and closed the door behind him. At that point she advised she removed contraband that she had hidden in her vagina. She advised she had a "Meth" pipe and a bag of "Meth". She advised that she hid the contraband in a box under the desk. She said that Fennel returned with two other male officers to conduct the strip search. She advised she stood up, told the officers to step back, and lifted her shirt and exposed her breasts, and made a full turn. She then dropped her pants and bent over so they could see that she had nothing inside her. After the search she said the other officers left. She described them as one white male and one Hispanic male. She did not get any names. She had a hard time trying to describe them.

██████ advised that Fennel then got the paperwork to get her started as a confidential informant. She advised she signed the paperwork. She advised that Fennel asked her "what are you willing to do to get out of this?" At that point she knew he was talking about sex. She advised she recorded the conversation on her phone without him knowing. She advised that she still owns the phone but it is in a storage unit that belongs to ██████ husband. She advised that Sgt. Fennel obtained \$40.00 dollars out of the police department evidence. ██████ advised that they left the PD and drove north on the frontage road of IH35 to Williams Drive. She advised they went to the hotel north of Williams on the west side of IH35 (Days Inn). She advised she went in talked to a female clerk, returned to Fennel and advised him that there were no rooms available. They then drove south on the frontage road of IH 35 back to University Dr (SH 29). She said they traveled east on University and then south on Austin Ave. ██████ advised they traveled to a "Rinky Dink" motel which was south of town, (Budget Inn). She said she walked in asked for a room, and then returned to Fennel's patrol car. She said she told Fennel there were no rooms available. She said to me that there were rooms at both hotels but did not want to be in one with him. She said she hoped he would just give up.

██████ advised that they then pulled out of the "rinky dink" hotel and took a right (south) on Austin Ave. She said they drove all the way down to the four way stop at inner loop and went left (east). She said they went past the probation office and took a right (south) down a dirt road. She said they stopped in a secluded area. She said she could see the lights at the intersection of FM 1460 and inner loop.

While there ██████ said Fennel asked her if she had a condom, to which she replied she did not. She said Fennel had a condom with him. ██████ said Fennel went to the trunk of the patrol car, which was opened, and she believes he put his belt in there. She said he put his uniform shirt in the backseat of the car. She said the only thing he had on were pants and a "wife beater" shirt. ██████ said she was standing between the front

passenger seat and the front passenger door. She said she had her hands at the top of the door. [REDACTED] said Fennel tried to kiss and hug on her and she did not want him to. She said she told him to just get it done. [REDACTED] said he entered her vagina with his penis. She said he was standing behind her. [REDACTED] said he finished real quick. [REDACTED] said he ejaculated in the condom. After the assault, [REDACTED] said they got back in the car and Fennel took a right (east) onto inner loop, drove to FM 1460. She said they went straight thru the light at FM 1460 and continued past the Juvenile Justice Center (JJC). She said they then took a left at the road just past the JJC. That road is County Road 110. She said he drove her to Rain Tree where he dropped her off. She advised he dropped her off at the intersection of Rain Tree and CR 110, because she did not want him to drop her off in front of her house. [REDACTED] said he made her give him her cell phone number. She said he called "all the time". She said he would call sometimes twice a week wanting them to get together. I asked if they ever did get together. She said they did not. She said he would always ask her to come into the city so he could see her. She said he would always call around 7:00 PM. She said when she would talk to him she would say she would meet him but never call him back. [REDACTED] said the calls stopped around June.

I asked [REDACTED] if she could take us to the place where the assault happened. She said she would. Sgt. Bartz and I drove [REDACTED] around town. First we drove by the Georgetown Police Department building. She pointed out which door she entered into. It was the east facing door used by the police officers. She said Fennel parked the patrol car on the curb right in front of the door. The street that is between the building and the parking lot is not a public street. It is closed for police vehicles only. She then directed us to a dirt road off of inner loop. I remember this place as the old model airplane landing strip. She showed us where the car was parked and what direction it faced. She remembered facing the lights at the intersection of FM 1460 and inner loop. We then took [REDACTED] back to the CVS pharmacy at FM 3406 and Chisholm Trail in Round Rock, where her father picked her up.

On 1-4-2008, Ranger Lindeman, Sgt. Bartz, and I called out crime scene tech. Carlos Cardona. We went back to the old model airplane landing strip to search for any evidence. Carlos took several pictures of the area. We also located what seemed to be an old condom wrapper close to where [REDACTED] said the vehicle would have been parked. That wrapper was taken as evidence by Carlos.

We then were able to find out who the second officer was at the time [REDACTED] and her boyfriend were arrested. He is now a Detective with Georgetown, Eric Wise. Sgt. Bartz and Ranger Lindeman interviewed him.

I called [REDACTED] and asked her about the cell phone with the recording. She said it should be in a storage unit belonging to a Ray Lees. She said she had been unable to find Ray. I located Raymond Lees III, W/M, 11-11-1969, supposedly living at an address in Georgetown, 3007 Sanaloma. I made contact with Ray's sister at this address. She said Ray no longer lives there but the storage unit is still being used. She said that her father pays the rent on the storage unit. I spoke to Raymond JR. He advised me that he does still have a storage unit and he would give us permission to look through the unit. He



advised that it would be better if it was done on Monday at around 2 PM. I advised him that I would call him then.

On 1-7-2008, I made contact with [REDACTED] by telephone. I asked her what kind of phone we would be looking for. She said it was a silver "Razor". I asked if she would be available to help look for it. She said she would be all I needed to do was call her.

I met Raymond Lees Jr. at the storage unit. He signed a "consent to search" form and he assisted us in trying to locate the cell phone. We were unable to find the phone. Raymond Jr. provided me with an address and phone number where [REDACTED] mother lives. He said she would probably have the phone in her storage unit.

On 1-8-2008, I attempted to locate [REDACTED] at the address provided, [REDACTED]. Detective Mike Cowie and I checked the residence and did not make contact with anyone. We noticed a church van that belonged to "Union Hill Baptist" church. We went to the church and asked if Kim or [REDACTED] were around. They advised that they only volunteered with the church and they did not know where they were. One employee said that Kim had a cleaning business and [REDACTED] worked for her. We looked at several convenience stores in the area for advertisements and found none. Detective Cowie said we should probably check a realty business. We went to the Remax located at Loop 332 and SH 29. We made contact with some of the ladies there. We told them who we were looking for and what kind of business they ran. One of the ladies was looking through the classified ads of the local paper and located an ad for house cleaning. The ad advised of a mother daughter team, call Kim. I called the number and left a message for Kim Glosson, [REDACTED] mother. She called me back. She gave me [REDACTED] cell phone number. I called [REDACTED] I talked to her and told her that I needed to look in her storage unit. She advised she did have [REDACTED] belongings and she would let us search the unit for the cell phone. We made arrangements to meet at 18:30 hours.

End of supplement.

MG4249

**Williamson County Supplemental Report**  
**Sheriff's Office**

Case Number: C07-10-7001  
Detective Marco A. Gomez

**Narrative:**

On 1-10-2008, Sgt. Bartz and I went to Killeen and met with [REDACTED]. We took along six different photo lineups for her to look at. The lineups each had one officer who would have been working the night of March 12<sup>th</sup>. [REDACTED] was advised not to pick any one if she was not sure. She looked through the lineups and chose one officer. [REDACTED] was not able to see any names. His name is Joshua Vasquez. [REDACTED] said she was about 85% sure. I asked [REDACTED] to stay available and keep me in touch if she decided to move or relocate anywhere. She advised she understood.

I called Georgetown LT. Stengle to get information on Officer Vasquez. He said he would check to see if he was working on that particular night.

When we arrived back to the office, we began the interviews of the officers who were working on the night of March 12<sup>th</sup>, 2007 and the early morning hours of the 13<sup>th</sup>. Officer Ned Ochs was first. Officer Ochs did not recall anything about that night related to this case. I then spoke to Officer Fred Pitcher. He said he did not remember anything about that night. He said he did not remember anything out of the ordinary.

I then spoke to Officer Ruben Vasquez; he said he did not remember anything about that night. He advised that he did not remember even working that night. He said he did not remember anything out of the ordinary. I asked about who was his supervisor he said it should have been Jack Lacy. I asked if Fennel had ever mentioned anything about confidential informants. He said he never got into any conversation about confidential informants. He said he talked to Officer Robbins, who is on the opposite night shift, about informants, but he did not talk to Fennel about informants.

I then talked to Officer David Lanier. He remembered that night he assisted Officer Eric Wise with a traffic stop. He said he was going to arrest the driver for a suspended license. He said he remembered that a female was with the driver. He said that he remembers her saying that she was a confidential informant for Fennel. He said he remembers her saying she lives out of town. He said he was able to remember because he remembers hearing her name later that night on another stop, this time with Fennel. He said he heard her name on the radio. I asked if he heard her talking about her being an informant or did he hear it from Wise. He said she told him. Lanier then remembered that he might have stopped her on a later stop and she might have mentioned it then. But he said he was sure it was on that original stop with Wise. I asked Lanier if he remembers talking with Fennel about confidential informants. He said he might have talked to Fennel about informants, but was unsure when. He said he remembered when Fennel would cover for Lacy they would never really see him around. He said Fennel would never check out on the radio. I asked about him checking out on the radio at the office. He said he did not remember seeing anyone at the PD and did not even remember

being there. He said if he was there he would probably be writing a report. He was struggling to remember if he saw her at the office later that night. He said he wanted to say that he did see her but was not sure. He said that he really wanted to say she was at the office but could not recall seeing her at the office. Lanier then began to recall another incident when he saw Fennel make a traffic stop and did not check out. He said that he found that odd. He said he pulled up behind Fennel to check on him. He said Fennel told him to leave. Sgt. Bartz entered the interview room. She asked Lanier about Fennel's traffic stop, which he did not check out on. He said he noticed a truck that he had seen earlier in a high drug area. He said when he went to check on him Fennel waved him off. He said he when he saw the truck earlier he noticed a female in the truck. He described the truck as a black "Ford" or "Chevy". He recalled the driver as a "pretty skinny" "drug user type" When asked if he could remember anything that he thought was not normal, he said he remembered one incident. He said he just started working for the city and he was assigned to work with Fennel. He said that they wanted to show him the drug areas of the city. He said that on one occasion Fennel took him through a neighborhood off of Algerita. He said they saw a Hispanic female on one of the balconies of a set of "4plexes". He said that Fennel parked behind the "4plexes" reached over to the glove box and retrieved a business card. He said that Fennel told him that he likes to let the neighborhood know of whom he is and when he is around. He left the car and left Lanier by himself. Lanier thought it was odd to leave him there alone when he could have been with Fennel meeting people himself. Lanier said Fennel returned about ten minutes later. Bartz asked Lanier to see if he could find an address for the female Fennel went to meet. He said he would do what ever he could. Lanier said that he was trying to remember about this incident. He said "because if he did something wrong, he deserves what's coming to him". When asked if he remembered Fennel talking to him about informants he said he could not remember if he went to Fennel and asked about the female that Wise had stopped. We asked Lanier about the female. He said that he might have stopped her sometime after the original stop, but he was unsure.

I then spoke to Officer Craig Ragland. I advised him that he was free to leave at anytime. I asked him to try and recall the night of March 12<sup>th</sup>. I asked him if there was anything that he could remember on that night. I asked him if there was anything out of the ordinary about that night. Ragland said he did not remember anything about that night. I asked if he knew Fennel. He said that he really did not know him. He said he did not really have any conversations with him. Ragland began to recall a traffic stop that he assisted on. That stop was not related to this incident.

End of supplement.  
MG4249

**Williamson County Sheriff's Office Supplemental Report**

Case Number: C07-10-7001

Detective Marco A. Gomez

## Narrative:

On 1-14-2008 I reviewed all radio traffic for Georgetown PD on the night of 3-12-2007, starting at about 17:30 hours, to 3-13-2007 ending at about 06:10 hours. This CD was provided to me by the LT. Tim Stengle of Georgetown Police Department.

At the beginning of the shift, I notice normal radio traffic. Units are going out of service and units are going in service. That is common. At 19:30:07 hours, Officer Eric Wise, 2416, advised dispatch that he was making a traffic stop. He says he is pulling over a vehicle with the [REDACTED]. At 19:33:25 hours he asks dispatch to check 2 persons out of county. The first is Christopher Warren, and the second is [REDACTED]. Officer Wise then asks for another Officer to check by with him. Officer David Lanier, 2443, responds to the call and tells dispatch that he is en-route from the PD. At 19:43:30 Officer Wise advised dispatch that Christopher was placed in custody for driving while license suspended. At 09:58:12 hours Officer Wise advised dispatch that he was en-route to the north lot. At 20:02:27 hours Officer Wise advised that he would be out at county and he would return to pick up paperwork later. At 21:10:08 hours, Officer Wise asked dispatch if he was clear for a meal break.

At 21:42:44 hours Sgt. Fennel, 2430, makes a traffic stop in the 2200 block of Katy. At 21:48:44 hours he asks dispatch to log a person in the system. At 21:52:40 hours Fennel gets back on the radio and advises dispatch to send him a suspicious circumstances call and show him in the area of the call. At 21:59:00 hours, Fennel is heard on the radio making another traffic stop. This is the stop that [REDACTED] is involved in again. He checks on traffic with [REDACTED]. At 22:02:07 hours he asks dispatch to check three individuals. He asks dispatch to check Bullock-Glosson, Jacqueline, Sandoval, Jacob, and [REDACTED]. At 22:04:28 hours dispatch advised Fennel if his "mic" was secure. At 22:05:31 hours Officer Wise checks out with Fennel and asks dispatch to confirm the warrants. At 22:18:15 hours Dispatch advised Fennel that they had a hard copy of the warrant in hand. At 22:22:20 hours Officer Wise advises Fennel "Hey Jimmy I'm grabbing her." At 22:25:37 hours Fennel advises dispatch to show Bullock in custody for possession of a controlled substance (POCS). At 22:29:57 hours Officer Wise tells dispatch that he is en-route to the jail with both persons and his beginning mileage is 32754. At 22:31:36 hours Fennel asks for a service number from dispatch (10062). At 22:34:58 hours Officer Wise checks out at county with and ending mileage of 32756. At 22:44:48 hours fennel advises dispatch that Bulldog wrecker is on scene. At 22:49:38 hours Fennel advises dispatch that the wrecker made pick up and he was en-route to the PD with one "single X" on board. "Single X" is code for a female. He advises dispatch that his beginning mileage is 16675. At 22:52:24 hours Fennel advises dispatch that he was out at the PD and his ending mileage is 16676. At 22:55:31 Officer Wise is heard trying to get a hold of Fennel on the radio. He tries two different times with no response. At 22:59:31 hours Officer Wise advises dispatch

that he is clear from this call. Officer Wise is then heard again making a traffic stop at 23:11:48 in the 800 block of Quail Valley. He makes two more traffic stops later, one at 23:34:21 hours and the other at 23:45:07 hours. Officer Wise then ends his shift at 00:48:01 hours. At 00:48:20 hours Officer Wise gets on the radio and asks if anyone is calling him. Fennel responds and tells him that he appreciates the help. Officer Wise responds with "no problem". Fennel advises him "It's called teamwork" Officer Wise is then heard on the radio at 00:48:50 hours talking to Fennel "It was like I was back on Charlie shift for a minute" and Fennel responded with "I hear you".

Fennel is not heard from until 03:31:45 hours. He checks out on scene with Officer Lanier, 2443. He asks dispatch to check a white female, Castillo, San Juanita. He advised dispatch that 2443 had her in custody. Fennel never advised what he did with [REDACTED]. He never advised if she was let go at the PD, or if some one came to pick her up. [REDACTED] stated in her interview that she was finally let go at 02:00 hours. She said she remembers because she was in the front seat of the car and saw his dash board clock. According to the Georgetown Police report Fennel did not enter his report into their system until 02:24:42 hours. Fennel had plenty of time to drop [REDACTED] off where she stated and then do his final report. And in his final report he states that [REDACTED] was released at the scene of the original traffic stop. In his report he never states that he took her to the police station.

End of supplement.  
MG4249

# Exhibit 38

<b>Incident Report</b>		
<b>Travis County Sheriff's Office</b>		
		<b>040011957</b>
		Supplement No <b>ORIG</b>
P.O. Box 1748		Reported Date <b>05/09/2004</b>
		Nature of Call <b>3107</b>
Austin, Texas 78767		Entered By
(512) 473-9770		

**Administrative Information**

Agency <b>TC</b>	Report No <b>04-11957</b>	Supplement No <b>ORIG</b>	Reported Date <b>05/09/2004</b>	Call No <b>041300040</b>	Status <b>RTF</b>	Nature of Call <b>3107</b>		
Location <b>I 35 N/US HWY 29</b>				City <b>GEORGETOWN</b>		ZIP Code	Rep Dist	
AREA	Map Coordinates		From Date <b>05/09/2004</b>	From Time <b>00:50:00</b>	To Date	To Time	Officer <b>81046</b>	
Officer	Entered By				Assignment	RC Status <b>FR</b>	RC Status Date <b>05/10/2004</b>	
RC Status Time <b>11:36:14</b>	Confidential	RMS Transfer <b>S</b>						
Case Jacket	Statements		Complaints/Affidavits		Medical Records Release		DWI Forms	
Other Documents	Photographs		Latents		Rape Kit			

**Person Summary**

Invl <b>SUS</b>	Seq <b>1</b>	Type Name <b>I FENNEL, J</b>	MNI <b>1185863</b>	RaceSex <b>W M</b>	DOB
Invl <b>VIC</b>	Seq <b>1</b>	Type Name <b>I SMITH, ANGIE LEE</b>	MNI <b>773130</b>	RaceSex <b>W F</b>	DOB

**Vehicle Summary**

Veh Invl <b>VIC</b>	Veh Invl Date <b>05/09/2004</b>	Type License No <b>1</b>	State	Lic Year	Veh Year	Veh Make <b>MTB</b>	Veh Model <b>ECL</b>	Veh Style <b>2D</b>	Veh Color <b>RED</b>
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**Summary Narrative**

ON 5/9/04, I BACKED UP DEPUTY STACKS ON A TRAFFIC STOP AT THE SHELL STATION LOCATED AT WELLS BRANCH AND IH 35.

<b>Incident Report</b>													
<b>Travis County Sheriff's Office</b>													
										<b>040011957</b>		Supplement No <b>ORIG</b>	
<b>SUSPECT (ADULT OR JUVENILE) 1: FENNEL, J</b>													
Invl	Seq	Type	Name			MNI	Race	Sex	DOB	Age			
<b>SUS</b>	<b>1</b>	<b>I</b>	<b>FENNEL, J</b>			<b>1185863</b>	<b>W</b>	<b>M</b>					
Juvenile?	Height	Weight	Hair Color	Eye Color	Skin								
	<b>5'10"</b>												
<b>VICTIM (ADULT OR JUVENILE) 1: SMITH, ANGIE LEE</b>													
Invl	Seq	Type	Name			MNI	Race	Sex	DOB	Age			
<b>VIC</b>	<b>1</b>	<b>I</b>	<b>SMITH, ANGIE LEE</b>			<b>773130</b>	<b>W</b>	<b>F</b>		<b>24</b>			
Juvenile?	Height	Weight	Hair Color	Eye Color	Skin								
	<b>5'09"</b>	<b>130#</b>	<b>BRO</b>	<b>BLU</b>									
Type	Address					City	State	ZIP Code					
<b>HM</b>	<b>14603 PLAIN ROCK PASS</b>					<b>AUSTIN</b>	<b>TX</b>	<b>78728</b>					
<b>Id Numbers</b>													
Type	ID No	OLS											
		<b>TX</b>											
Type	ID No	OLS											
<b>Phone Numbers</b>													
Type	Phone No												
<b>C</b>	<b>917-4064</b>												
Type	Phone No												
<b>H</b>	<b>989-0594</b>												
<b>Vehicle</b>													
Veh Invl	Veh Invl Date	Type	License No	State	Lic Year	Lic Type	Veh Year	Veh Make	Veh Model	Veh Style	Veh Color		
<b>VIC</b>	<b>05/09/2004</b>	<b>1</b>				<b>PC</b>		<b>MTS</b>	<b>ECL</b>	<b>2D</b>	<b>RED</b>		
Value	VIN	Stt Loc/Rec Loc		Recv Date		Recv Value		Loc	# Recovered				
Recv Damage	Rep Dist	Storage			Officer	Condition	Gen Cond	Dispo	Dispo Date				
Window Type	Modifications			Damage	Def Equip	Tire Pattern		# Occupants					
Special Features													
Person Invl	Invl	Seq	Name			Race	Sex	DOB					
<b>OWN</b>	<b>VIC</b>	<b>1</b>	<b>SMITH, ANGIE LEE</b>			<b>W</b>	<b>F</b>						

**Narrative**

REPORT BY C. TURNER #1046  
5/9/04

I HEARD DEPUTY STACKS CHECK OUT ON TRAFFIC AT THE SHELL STATION LOCATED AT IH 35 AND WELLS BRANCH ON THE NORTHWEST CORNER. I WAS ACROSS THE STREET ON THE SOUTHWEST CORNER COULD SEE HIS PATROL VEHICLE FROM WHERE I WAS. I WENT TO THAT LOCATION TO BACK HIM UP.

UPON MY ARRIVAL, I OBSERVED DEPUTY STACKS TALKING TO A FEMALE, LATER IDENTIFIED AS SMITH, ANGIE.

SMITH WAS STANDING AT THE REAR OF HER CAR  
RED MITSUBISHI ECLIPSE TX LP YSS98R.

ONCE I MADE CONTACT WITH SMITH AND STACKS, I OBSERVED SMITH'S HANDS TO BE SHAKING. I OVERHEARD SMITH TELLING DEPUTY STACKS THAT SHE HAD BEEN PULLED OVER



<b>Incident Report</b>		
<b>Travis County Sheriff's Office</b>		
	<b>040011957</b>	Supplement No <b>ORIG</b>
<b>Narrative</b>		

BY AN OFFICER IN GEORGETOWN. SMITH SAID WHEN SHE TOLD THE OFFICER SHE WOULD TAKE CARE OF HER EXPIRED DRIVER'S LICENSE AND REGISTRATION ON MONDAY, HE SUGGESTED THAT SHE TAKE CARE OF IT THEN BY GIVING HIM A LAP DANCE. HE SUGGESTED THAT SHE MEET HIM AT INNER SPACE CAVERN. SHE DIVERTED THE CONVERSATION BY TALKING ABOUT THE WILLIAMSON COUNTY SHERIFF AND SAYING THAT SHE KNEW HIM AND HIS WIFE AT WHICH POINT SHE WAS RELEASED.

STACKS ASKED ME IF I KNEW AN OFFICER J. FENNEL AND I TOLD HIM I DID. FENNEL INITIATED A PURSUIT OUT OF GEORGETOWN WHICH CAME INTO TRAVIS COUNTY THAT I WAS INVOLVED IN APPROXIMATELY A YEAR AGO. ON THAT OCCASION, FENNEL GAVE ME HIS BUSINESS CARD. MY HUSBAND, WHO IS A TRAVIS COUNTY DEPUTY ALSO, SAW THE BUSINESS CARD. HE THEN TOLD ME HE KNEW FENNEL BECAUSE FENNEL PREVIOUSLY WORKED FOR BASTROP POLICE DEPARTMENT AND MY HUSBAND PREVIOUSLY WORKED FOR THE BASTROP SHERIFF'S OFFICE. HE TOLD ME FENNEL'S GIRLFRIEND WAS MURDERED IN BASTROP COUNTY SEVERAL YEARS AGO.

I ASKED SMITH IF SHE WOULD BE WILLING TO GIVE ME A SWORN STATEMENT IN REGARD TO WHAT HAPPENED AND SHE AGREED. SMITH WROTE OUT A THREE PAGE STATEMENT DETAILING THE EVENTS. SMITH DESCRIBED THE OFFICER AS A WHITE MALE WITH A SMALL REDDISH BROWN MOUSTACHE. SHE SAID HE HAD A ROUND FACE AND IS APPROXIMATELY 5'10. SHE DESCRIBED HIM AS BEING SOMEWHERE BETWEEN MEDIUM BUILD AND HEAVY SET AND IN HIS THIRTIES. HE WAS WEARING A BLACK BALL CAP WITH BLUE WRITING. HE WAS WEARING A DARK COLORED UNIFORM WITH THE PATCH SEWN ON IT. SHE SAID SHE GOT HIS NAME FROM A GOLD BADGE ON HIS UNIFORM. THE PATCH ON HIS SLEEVE HAD ROYAL OR DARK BLUE ON IT.

SHE SAID SHE WAS TURNING LEFT ONTO THE EAST FRONTAGE ROAD OF IH 35 FROM THE ROAD THAT GOES TO TAYLOR/BURNET. SHE NOTICED THE POLICE CAR IN THE LANE THAT GOES STRAIGHT FACING THE OPPOSITE DIRECTION. AFTER SHE TURNED ONTO THE FRONTAGE, SHE NOTICED THE POLICE CAR WAS BEHIND HER. SHE SAID HE THEN FLASHED HIS LIGHTS AND SHE PULLED OVER. WHEN SHE ASKED WHY SHE WAS PULLED OVER, SHE WAS TOLD IT WAS BECAUSE SHE HAD A CROOKED LICENSE PLATE. HE HAD HER EXIT THE VEHICLE. HE ASKED TO SEARCH HER CAR AND SHE SAID YES. HE OPENED THE PASSENGER DOOR AND ASKED HER IF SHE LIVES IN HER CAR. SHE HAD A LARGE BLACK DUFFEL BAG IN THE PASSENGER SEAT. SHE TOLD HIM THAT WAS HER WORK BAG. WHEN HE ASKED WHERE SHE WORKED, SHE REPLIED "JOY." HE THEN CLOSED THE DOOR. AFTER PAUSING, HE ASKED HER WHAT SHE WANTED TO DO ABOUT THE SITUATION. SHE PROMISED SHE WOULD GET EVERYTHING TAKEN CARE OF ON MONDAY. THAT'S WHEN THE OFFICER ASKED HER FOR A LAP DANCE.

SMITH SAID SHE DOESN'T RECALL HIM EVER RUNNING HER DRIVER'S LICENSE ON THE RADIO. THE ONLY THING SHE BELIEVES SHE HEARD HIM SAY ON THE RADIO WAS "40." NO OTHER OFFICERS SHOWED UP. SHE DID NOT NOTICE HIM WEARING A BODY MIC AND DID NOT KNOW IF THERE WAS A CAMERA IN THE PATROL CAR.

THE OFFICER STOOD WITHIN ARMS LENGTH AND WOULDN'T MAKE EYE CONTACT. SMITH SAID SHE WAS CAREFUL THAT HE DIDN'T SEE HER LOOKING AT HIS NAME TAG. SHE SAID SHE FELT UNCOMFORTABLE AROUND THE OFFICER. SHE DID NOT FEEL LIKE SHE WAS FREE TO LEAVE.

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<b>Incident Report</b>		
<b>Travis County Sheriff's Office</b>		
	<b>040011957</b>	Supplement No <b>ORIG</b>
<b>Narrative</b>		

SHE DENIED HIM MAKING ANY PHYSICAL CONTACT WITH HER.

SMITH SAID AFTER SHE WAS ALLOWED TO LEAVE, SHE CONTINUED SOUTH ON THE INTERSTATE. ONCE SHE GOT INTO ROUND ROCK, SHE CALLED A FRIEND AND TOLD HIM WHAT HAD HAPPENED. SHE SAID SHE DIDN'T KNOW WHAT TO DO BECAUSE THE INCIDENT INVOLVED AN OFFICER.

SMITH SAID SHE HAS NEVER SEEN FENNEL BEFORE THIS INCIDENT.

WHEN I WAS TALKING TO SMITH, SHE WOULD MAKE AND MAINTAIN EYE CONTACT. HER STATEMENT STAYED CONSISTENT. SMITH TOLD ME THAT HER LICENSE IS SUSPENDED AND EXPIRED. I SAW NO INDICATIONS THAT SMITH HAD BEEN DRINKING OR UNDER THE INFLUENCE OF ANY NARCOTICS. I LOOKED INTO SMITH'S VEHICLE AND SAW NOTHING IN PLAIN VIEW TO ME THAT SHE MIGHT BE INVOLVED IN ANY TYPE OF ILLEGAL ACTIVITY. I OBSERVED WHAT LOOKED LIKE A BLACK LACE BUSTIER ON THE FRONT PASSENGER SIDE FLOORBOARD.

SMITH WAS WEARING A PINK PULLOVER SHIRT WITH A V-NECK, BLACK CARGO TYPE PANTS, AND BLACK FLIP FLOPS WITH A THICK RUBBER SOLE. HER ATTIRE WAS IN NO WAY REVEALING. HER HAIR WAS LONG AND STRAIGHT. SHE WORE A CONSERVATIVE AMOUNT OF MAKE UP.

SMITH WAS PROVIDED WITH A VICTIM PAMPHLET WHICH INCLUDED THE CASE NUMBER. SGT WOOLEY WAS MADE AWARE OF THE SITUATION. A CASE JACKET WAS PREPARED WHICH INCLUDES SMITH'S WRITTEN STATEMENT.

<b>Incident Report</b>							
<b>Travis County Sheriff's Office</b>							
						<b>040011957</b>	Supplement No <b>0001</b>
<b>P.O. Box 1748</b>						Reported Date <b>05/09/2004</b>	
						Nature of Call <b>3107</b>	
<b>Austin, Texas 78767</b>						Entered By <b>80318</b>	
<b>(512) 473-9770</b>							
<b>Administrative Information</b>							
Agency <b>TC</b>	Report No <b>04-11957</b>	Supplement No <b>0001</b>	Reported Date <b>05/09/2004</b>	Call No <b>041300040</b>	Status <b>RTF</b>	Nature of Call <b>3107</b>	
Location <b>I 35 N/US HWY 29</b>				City <b>GEORGETOWN</b>	ZIP Code		Rep Dist
AREA	Map Coordinates		From Date <b>05/09/2004</b>	From Time <b>00:50:00</b>	To Date	To Time	Officer <b>S1046</b>
Officer	Entered By <b>S0318/MURCHISON, KENNETH D</b>				Assignment <b>LAW</b>	RC Status <b>FR</b>	RC Status Date <b>05/14/2004</b>
RC Status Time <b>13:49:28</b>	Confidential	RMS Transfer <b>S</b>					
Case Jacket	Statements		Complaints/Affidavits		Medical Records Release		DWI Forms
Other Documents	Photographs		Latents		Rape Kit		
<b>Summary Narrative</b>							
see narrative							

<b>Incident Report</b>		
<b>Travis County Sheriff's Office</b>		
	<b>040011957</b>	Supplement No <b>0001</b>
<b>Narrative</b>		

Written by Det Murchison 318

May 12, 2004

Assigned and reviewed case. Occurred in Williamson County. Called IA division and spoke to Lt. Tim Stengle. He stated that he would contact me on Friday 05/14/2004 so that I could fax him the report.

May 13, 2004

Complainant called checking status of case. I informed her that the case would be handled by Williamson County. I gave her the officers information.

May 14, 2004

I faxed the case information to Lt Stengle. Case closed cleared unfounded.

Printed By <b>S1835/EATON, SHELLY</b>	Printed At <b>02/25/2008 16:04:41</b>	<b>Page 2 of 2</b>
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STATE OF TEXAS X

Offense No. 04-11957

COUNTY OF TRAVIS X

AFFIDAVIT IN ANY FACT

BEFORE ME, Carri Turner a Notary Public in and for said County, State of Texas, on this day personally appeared Angie Lee Smith, who after being duly sworn, on oath deposes and says:

My name is Angie Lee Smith. My birth date is  
[REDACTED]. My address is 14603 Plain Rock Pass, Austin,  
TX 78728. My phone number is 989-0594. My  
cell number is 917-4064. My social security number  
is My Texas driver's license number is

On June 9, 04 at <sup>AS</sup> 12:50 officer J. Fennel pulled  
me over 35s and 29. He ask for my drivers license. I gave it. <sup>AS</sup> <sup>AS</sup> ~~He said~~ Told  
him everything ~~exp~~ He said ok. He asked me why havent I fixed it. I told  
him I have alot of things going on. Its overwelming. He asked if I had  
and drugs or weapons in the car. I said no. He asked to search it. I said yes.  
He opens the passenger side door, puts his head in, asked if I live out  
of my car. I said no that's my <sup>works</sup> ~~home~~ <sup>AS</sup> <sup>AS</sup> <sup>or</sup> <sup>AS</sup> <sup>AS</sup> ~~bag~~ ~~the~~ ~~same~~ ~~where~~ ~~do~~ ~~you~~ ~~work~~.  
<sup>AS</sup> <sup>AS</sup> ~~He said~~ ~~yes~~. He ask are you sure you dont do drugs. I said  
no. He said where do you work. I said jay. He said oh really.

I can read and write the English language. I have read the above statement and the facts therein are all true and correct and this did occur in Travis County, Texas.

Angie Smith

SUBSCRIBED AND SWORN TO BEFORE ME THIS 9 DAY May AD, 19 2004

Carri Turner ~~Notary~~ <sup>with</sup>  
Notary Public, Travis County, Texas  
Peace Officer

p. 1 of 3

STATE OF TEXAS X

Offense No. 04-11957

COUNTY OF TRAVIS X

AFFIDAVIT IN ANY FACT

BEFORE ME, Carri Turner a Notary Public in and for said County, State of Texas, on this day personally appeared Angie Lee Smith who after being duly sworn, on oath deposes and says:

He closed the door. He pauses for a while. He says so what do you want to do about this. I said I promise I will get this fixed Mon. He said what about tonight. I said I can have someone come get me. He said well how about you give me a lap dance. I said how many. He said I don't know. I said well I work every day. He said how about in the space cavern parking lot. I said what how am I supposed to dance there. He said how you dance at work. I <sup>as</sup> ~~can~~ I supposed to get naked. He - do you at work. He - Its not like im going to rape you or anything. I - how am I supposed to dance. He - do you have music. I no but I don't feel comfortable <sup>as</sup> doing that. You don't trust me to get this done on Mon. How can I trust you. He said would you feel more comfortable in a less lighted parking lot. I said no I wouldn't ~~feel~~ <sup>as</sup> feel

I can read and write the English language. I have read the above statement and the facts therein are all true and correct and this did occur in Travis County, Texas.

Angie Smith

SUBSCRIBED AND SWORN TO BEFORE ME THIS 9 DAY May AD, 192004

Carri Turner #1046  
Notary Public, Travis County, Texas  
Peace Officer

p. 2 of 3

STATE OF TEXAS X

Offense No. 04-11957

COUNTY OF TRAVIS X

AFFIDAVIT IN ANY FACT

BEFORE ME, \_\_\_\_\_ a Notary Public in and for said County, State of Texas, on this day personally appeared \_\_\_\_\_ who after being duly sworn, on oath deposes and says:

comfortable doing that. <sup>as</sup> Then we got on conversation  
of the old sheriff. I said well do you know the new one  
he said no. I said well where I came from. They know  
the <sup>as</sup> new one and he's hung out with us a few times  
and he's cool, his wife is really cool. He said ok well  
I guess I'll let you go <sup>as</sup> ~~take pay a note~~ since you don't  
feel comfortable but get this fixed. <sup>as</sup> ~~Thank~~ I  
thanked him

I can read and write the English language. I have read the above statement and the facts therein are all true and correct and this did occur in Travis County, Texas.

SUBSCRIBED AND SWORN TO BEFORE ME THIS

Angie Smith  
9 DAY May AD, 19 2004

Carri Turner #1046

Notary Public, Travis County, Texas  
Peace Officer

p 3 of 3

# Exhibit 39



**Williamson County Supplemental Report Case Number: C07-10-7001**  
**Sheriff's Office**

**Narrative:**

**ADDITIONAL OUTCRY OF MISCONDUCT 12/05/2007**

On 12/05/07 I, Detective J. W. Knutson #10041, was alerted to a female calling into the Sheriff's Office wanting to speak to me about the Fennell case.

I spoke to a Kelly Ramos, [REDACTED], who advised me that she had seen the news last night where Fennell was arrested and recognized him as a Georgetown Police Officer who had acted inappropriately on a night back in August of 2007 after he stopped her and had threatened her.

Ramos advised over the phone that during August of 2007 she and her boyfriend, Mario Beltran and her friend, Amy Rendon, were in the area of San Jose Street in Georgetown after dropping another friend off at a different location. Ramos advised that her boyfriend, Mario, asked her to stop at a house on San Jose and wait in the car while he went inside. She advised that she remained in the vehicle with Amy while Mario went inside. She advised that a vehicle pulled onto the street and pulled up to the front of her car with the lights of the vehicle coming through the front windshield. She advised that she was approached by a Georgetown Police Officer whom she now recognizes to be Jimmy Fennell. She briefly told me that Fennell ran her boyfriend off, claimed he had found drugs on her and pulled her into the bushes out of sight from her friend Amy and threatened her family and advised that he would not take her to jail for the drugs and would be by her apartment at around 0300 hrs for what she believed he intended to be a sexual rendezvous. She advised that she was released and was so afraid that she called her mother who complained to the Georgetown PD that same night and received a call back from the supervisor who claimed that Ramos did have drugs but they would not pursue the incident since she was complaining of misconduct and it would be handled internally. She advised that for some period after that, Fennell would drive by her apartment in the middle of the night and she was highly afraid for her safety and now felt comfortable bringing it to the attention of authorities again since Fennell was in jail. I asked Ramos to come in for an interview and to bring her mother and any other witnesses. She agreed to do so and advised she would be at my office at 1000 hrs. At 1000 hrs Ramos arrived with Amy Rendon, [REDACTED] (her friend), and her mother Annette Jennings, [REDACTED]. She advised that her boyfriend, Mario, was out of town working in Houston and would not return until the weekend.

I escorted the three back to my office and partnered up with Detective Gomez to assist in the interviews.

I spoke with Ramos while Gomez interviewed the other two.

In my interview with Ramos she advised that she, Amy Rendon, and Mario Beltran had left their apartment on Katy Lane to take another friend identified as Luis, to his house. After dropping Luis off they drove to 2111 San Jose where Mario has a friend named Chapo who resides there. Ramos advised that Mario instructed Amy and Kelly to stay in the car while he went inside. They did so. She advised that shortly after Mario went inside, a vehicle pulled in front of her car, headlamp to headlamp, and someone got out and approached her vehicle. Upon the person getting to her door she recognized they

were a Georgetown Police Officer by their uniform. Kelly was in the drivers seat with the engine off and Amy was in the back seat of the car.

The Officer instructed the two to get out of the car and informed them that they were parked in front of a drug house. Ramos admitted to me that she knows that the area has drugs around but advised that she no longer uses drugs. She advised that she did not go inside because she knows that Chapo is possibly involved in drugs and prostitution and she does not want to associate herself with them and that is another reason why she stayed in the car. I asked if Mario uses drugs and she advised that she does not think so but is not sure. She advised that he claims that he does not but is a friend with Chapo. Kelly advised that she told the officer that they were not there for drugs and he asked them to get out of the car. The officer then asked for permission to search her car. Kelly advised that she consented to the search because she knew there was nothing in her car. She advised that she was placed at the front of her car and Amy was placed at the rear. Sometime around this point another officer arrived and pulled in behind her car. While the officer was searching her car Mario came out of the house and was stopped and searched.

Kelly advised that the officer came back to where she was and told her that her boyfriend had drugs and he had sent him away because she did not need people in her car who were carrying drugs with them. He was not arrested.

Kelly advised that Amy was placed back in the vehicle and the officer told the second officer who arrived to leave and he would handle it.

Kelly advised that she was then directed to go toward some bushes off the side of the road where Amy could not hear her talking with the officer. Kelly advised she was wearing a low cut spaghetti strap shirt which showed cleavage. She advised that the officer got very close to her, within a foot of her, and backed her against the bushes. She advised that she was told that the officer had found methamphetamines in her car and he could take her to jail and have her kids taken away from her. She advised that while he was talking he continued to look at her breasts in a provocative manner. This encounter in the bushes lasted approximately 10 minutes. During the conversation Kelly stated that the officer continually attempted to get closer to her and she would lean further back. She advised that the officer was holding her ID and cell phone. She further advised that he had already run her name through dispatch and heard her returns come over the radio and he knew of her criminal back ground and it appeared to her that he was trying to use that against her. She stated that the officer told her that she was not going to go to jail but they needed to discuss the situation further and he would be by her apartment at around 0300 hrs and her boyfriend better not be at home and her kids better be asleep. The officer continued to stare at her breasts and make her uncomfortable. I asked Kelly what she thought was going to happen when he came to her house and she advised that she believed he wanted to have sex with her and was using the fact that he could take her to jail to get her to consent. She advised that she had no drugs in his car and believes he planted them.

Kelly also advised that during the conversation she heard a broadcast over the officer's radio indicating that a pizza place was being broken into and that is why the officer finally left.

She advised that she got in her car after he let her go and called her mother who called the police department to report the incident. Kelly advised that her mother told her that

she had spoken with someone from the police department and she and Amy and Mario needed to come to her house in case they needed more information but no one ever called them back after her mother spoke with the supervisor on duty.

Kelly advised that for a few weeks after this a Georgetown Police car would drive by her apartment while she was outside but she did not know who was driving and always assumed it was the officer who had solicited her and was afraid for her safety.

She advised that a few weeks ago she received a call that two of her friends, Julian and Jesus, who live near her had been stopped by a GTPD officer and needed her to bring their mother to their location on 15<sup>th</sup> street to pick up their car. She advised that she drove their mother there and upon arriving she saw the officer again. She advised that she was very afraid and began to shake because she was he would recognize her. She advised that she recognized him from the encounter in August by his appearance.

She advised that she left the scene and does not think he recognized her.

Kelly said that she was watching the news and saw him again and they identified him as Jimmy Fennell and she knew it was the same officer that had harassed her. She advised that she now felt comfortable and safe in coming forward with the information since he was in jail.

During the interview Kelly acknowledged her criminal back ground and drug use. She also advised that she has previously made a complaint against a GTPD officer for harassing her several years ago. She advised that other than these two encounters with Fennell, she has never met him or been stopped by him or arrested by him.

Kelly provided a written statement.

Kelly further advised that Julian and Jesus had a ticket from the scene a few weeks ago and she would try to get it to verify more of her story.

I met with Detective Gomez who had interviewed Kelly's mother. He advised that the story was consistent.

Detective Gomez also interviewed Amy Rendon who confirmed what Kelly said and further advised that from where she was standing, to the rear of the vehicle, she observed Fennell pull a cigarette box from Kelly's driver side door and then reach in his pocket and pull out a small plastic baggie, similar to those which are typically used to package small amounts of cocaine and methamphetamines, and placed it in the cigarette box. She further advised that she was told by Fennell to tell Mario to leave because Mario does not speak English and she speaks some Spanish.

Both Annette and Amy provided written statements.

Later that day I met with Lt. Stengle with GTPD's Internal Affairs Division. He was provided with the information I had gathered for research.

I met with him at his office later that day and was provided with the following information. The PAPA JOHN'S pizza place was robbed at gun point during the early morning hours of 08/11/07.

At 00:28:14 on 08/11/07 (Saturday), Fennell stopped out with a suspicious vehicle in the area of 2001 San Jose Street. He ran a check on Kelly Ramos and her [REDACTED]

[REDACTED] He also ran a check on Amy Rendon and Mario Beltran.

At 00:35:34 unit 2431, Danny Mouth, arrived on scene. He cleared the scene at 00:56:21. Fennell shows to have cleared the scene at 01:08:43 hrs.

The disposition shows that it was cleared with a report but none was located in the system, indicating that a report was never written by Fennell. No arrests were made.

At 01:01:44, several units were dispatched to a robbery at the Papa John's Pizza. This would be while Fennell is still out with Kelly Ramos on San Juan Street.

He shows to go en route at 01:11:31 and arrived at 01:11:36. This is several minutes after the other units went en route and arrived at the critical incident. Fennell was the supervisor on duty that night. He shows to have cleared the scene at 01:56:12 hrs.

At 01/21/19 hrs Annette Jennings report to the Georgetown Police Department dispatch that she wanted to speak to a supervisor to complain about an officer who dealt with her daughter. The call was sent to Fennell at 20:00:22 hrs and he cleared it at 02:07:13 hrs noting that it was informational only. No report was taken. The call notes confirm that the incident was handled by phone.

This information confirms the story given to me by Kelly and her mother and friend.

On 12/06/07 Kelly met me at the Sheriff's Office with the citation that her friend Julian had received on 10/10/007, [REDACTED] It was issued by Jimmy Fennell at 1500 S. Church Street and 15<sup>th</sup> Street.

A photo copy was made for the case jacket and the original was placed into evidence.

END OF SUPPLEMENT

JK10041

**Williamson County Supplemental Report Case Number: C07-10-7001**  
**Sheriff's Office**

**Narrative:**

**INTERVIEW WITH GTPD OFFICER DANNY MEUTH ABOUT RAMOS**

On 12/06/07 I, Detective J. W. Knutson #10041, made arrangements to meet with Officer Meuth at my office in Georgetown.

During the interview Meuth advised that he was present at the San Jose scene where Ramos and her friends were stopped. He informed me that he did not remember Ramos' name but did provide a description of her and described the incident consistently with Ramos. He advised that he remembered the incident because later in the night he was approached by Fennell who advised that Ramos' mother had called to complain on him. Meuth advised that he did not search Ramos or her vehicle but advised that he was told by Fennell that Fennell had found meth in Ramos' vehicle.

He then left the scene and as told later by Fennell that the mother had complained. I asked if it was normal for GTPD not to arrest on a felony POCS charge and he advised that he does not turn them loose on such incidents.

He advised that he left the scene while Fennell and the two females, Rendon and Ramos, were still there.

Meuth also stated that Fennell mentioned that he would use Ramos as an informant. I asked if Fennell had lots of informants and he advised that he did not know but that Fennell would also get information from somewhere and then they would show up and find drugs.

Meuth added that Fennell offered to show him how to turn a person into an informant but never actually showed him how the process worked.

Meuth advised that he remembers the Papa John's Pizza robbery and drove to the scene of the incident but did not check out on location. He advised that after the incident he remembered speaking with Fennell and being advised that Ramos' mother had complained on him.

Meuth provided a written statement and the interview was recorded.

END OF SUPPLEMENT

JK10041

# Exhibit 40

**Williamson County Sheriff's Office**    **Supplemental Report**

Case Number: C07-10-7001  
Detective Marco A. Gomez

**Narrative:**

On 2-19-2008 I was informed by Sergeant Bartz that she had received a request form from the jail relating to this case. The form was from Mary Ann Bone, [REDACTED] a copy of the form was given to me. Mary Ann wrote "I can offer you more information on Officer Jimmy Fennell.... I am a victim of his advances..." Mary was brought down to the interview room so Sergeant Bartz and I could talk to her.

Mary Ann advised that Fennell was called to her home, [REDACTED] [REDACTED] She said he was talking about CPS taking her kids away. She said he asked what she would do so that did not happen. She said she did not know. He asked her if he could bend her over the couch and "fuck" her. She said she did not know what to say. She said he did not have sex with her.

Mary Ann advised that she had been struggling with what has happened to her. She said she saw the news about Fennel and learned that he bonded out. She said she just wanted to help the girl who was making the allegations, because she knew how it felt for no one to believe her story.

I called Lieutenant Tim Stengle, and asked him to put together all contacts with Mary Ann. He said he would work on it and get back with me.

End of supplement.  
MG4249

# Exhibit 41



**Williamson County Supplemental Report Case Number: C07-10-7001**  
**Sheriff's Office**

**Narrative:**

On 12/18/07 I, Detective J. W. Knutson #10041, was contacted by Lt. Stengle with the Georgetown Police Department. He informed me that he would like for me to meet with him at the Casa Ole restaurant in Wolf Ranch to meet with another witness in reference to this case.

I arrived at the location and met with Lt. Stengle and a female identified as Jamie Nichole Bolin, [REDACTED] Bolin advised that during the late part of October or early part of November she had called the GTPD in reference to a disturbance she was having with her boyfriend, David Lieske, at her apartment inside the city of Georgetown. She advised that Fennell and another officer arrived on scene. She met with Fennell in the back bedroom of the house and showed Fennell what Lieske had been breaking and advised him that nothing physical had happened between the two of them. She advised that Fennell made the comment that it sounded like she needed a new boyfriend and asked how long she had lived there and other personal questions. She advised that during this time he looked at her in a manner that made her uncomfortable. She advised that Fennell asked for her drivers license which she willingly gave him. She advised that Fennell and the other officer asked David to leave the residence for the night which he did.

Bolin says that she heard radio traffic come back over Fennell's radio and he motioned to the other officer to step outside and the two exited the apartment and Fennell returned to inform her that she had a warrant for her arrest for theft by check. He advised that she was not going to go to jail for the warrant and explained that he was the supervisor on duty and the decision for her not to go to jail was made by him and that he was the reason she was not going to jail.

Bolin advised that she thanked Fennell and he began to explain what she needed to do to take care of the warrant and wrote instructions down for her on a piece of paper. She advised that another call came in over the radio and Fennell explained that he needed to go and asked if he could come back in a little while.

Bolin stated that she told him it was late and she had to work in the morning.

Bolin advised that about an hour later Fennell returned and knocked on the door. Bolin stated she did not want to answer the door because she did not understand why Fennell was coming back in the first place. She advised he had already covered what she needed to do to take care of the warrant. Bolin advised that she did answer the door and let Fennell inside. He sat down on the couch and covered the same information again. Bolin advised that she was watching a movie and had pizza on the table that she had ordered and none of this seemed to bother Fennell. She advised that after explaining what she needed to do to take care of the warrant again he began to ask personal questions about what she did for fun and whether she had ever considered dating older men. He also asked where David worked and what kind of movies she liked to watch. She advised that he continued to talk for approximately 35 to 55 minutes with long awkward pauses between segments as if he was waiting for something.

Bolin advised that she believes that Fennell picked up on the fact that she was getting antsy and didn't really want to talk anymore and he asked her if she had been in any trouble in the past and she told him no.

Fennell then advised that he used to be a narcotics officer and he knows how to make tickets and warrants disappear.

Fennell then gave her his card and put his cell phone number on it. He informed her that he works nights and patrols her area a lot and come to work around 9 PM and stated that if she ever needed anything or if she was just bored she should call him. Fennell then left.

She advised that the interaction made her very uneasy and uncomfortable. She further advised that it appeared he was trying to bribe or black mail her and it made her uncomfortable due to his questions and the looks he was giving her.

The next night she saw a police car in the area of her residence and advised that when the police car saw her it went from a parked position to moving and drove by her house with his arm out the window. She advised that she could clearly see it was Fennell in the vehicle. She advised that she saw him a few times after that incident driving by her house in the early hours of the morning or late hours of night.

A written statement was provided and imaged with this report.

I gave Bolin my card and informed her to call me with any changes to her status in employment or where she resided. She agreed to do so and also not to discuss the incident with anyone else.

Lt. Stengle did the same.

She also agreed to come by my office at 8:30 AM on 12/19/07 for a video taped interview and to bring David with her to confirm the information.

Lt. Stengle advised he would bring me the print out from the call and Bolin's in-house information.

I did confirm that Bolin had a warrant for theft by check, class b misdemeanor, which she was arrested for on 11/05/07 and released the next day. This was after Fennell's suspension and after the original incident which created this investigation.

END OF SUPPLEMENT

JK10041

# Exhibit 42

10918  
CAUSE NO. ~~C-10-00031-EE~~

JIMMY LEHMAN, EUFRICINO LEHMANN, § IN THE DISTRICT COURT  
MARIO MURILLO and MARTIN MURILLO §  
§  
VS. § LEE COUNTY, TEXAS  
§  
CITY OF GIDDINGS, MAYOR PAUL KIPP, §  
POLICE OF CHIEF DENNIS OLTSMANN, § 21st JUDICIAL DISTRICT  
NATHAN P. LAPHAM and JIMMY FENNELL §

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, PLAINTIFFS complaining of Defendants and for cause of action  
would respectfully show the Honorable Court as follows:

I.

Plaintiffs are residents of Lee County, Texas.

Defendant, City of Giddings is an incorporated in the State of Texas, County of Lee  
and may be served process through its mayor, Paul Kipp at 118 East Richmond,  
Giddings, Texas 78942.

Defendant, Mayor Paul Kipp is the mayor of the city of Giddings, and may be  
served at 118 East Richmond, Giddings, Texas 78942.

Defendant, Police Chief Dennis Oltman is the police chief of the city of Giddings  
and by served process at 118 East Richmond, Giddings, Texas 78942.

Defendant, Nathan P. Lapham is a police officer employed by the city of Giddings  
and may be served process at 118 East Richmond, Giddings, Texas 78942.

Defendant, Jimmy Fennell is a police officer employed by the city of Giddings and  
may be served process at 118 East Richmond, Giddings, Texas 78942.

FILED

9:30 AM

JAN 10 1997

*[Signature]*  
DISTRICT CLERK  
LEE COUNTY, TEXAS  
DEPUTY

FEB 10 1997

## II.

It has become necessary to file this lawsuit as a result of police harassment and misconduct which occurred on February 9, 1996 in Giddings, Lee County, Texas. On that day Plaintiff, Mario Murillo was peacefully driving his pick-up truck in the city of Giddings when he was spotted by Officers Fennell and Lapham. They had on previous occasions told him that whenever they saw him they were going to beat him and arrest him. On this occasion when they saw him they immediately began to chase him and when he got out of his pick-up truck they beat him and put him in handcuffs. Since the beating and altercation took place close to Mario's home his mother, father and brother Martin Murillo came out to see why the police were beating and harassing Mario. As Mr. and Mr. Lehman approached the area Office Fennell removed his handgun and put it to the head of Mario Murillo and made threats similar to the way a terrorist would hold a hostage. Fearing for his life Mario Murillo broke loose from the Officer and ran into his house. Shortly thereafter Lee County Sheriff Deputy Gonzales arrived and calmly spoke to the frighten family. He retrieved the police officer's handcuffs from Mario and returned them to the officers without incident. The police officers continued to make verbal threats to the Plaintiffs.

To make good on the verbal threats and believing they were above the law Officers Fennell and Lapham went back to the police station and swore out several warrants for the arrest of all of the Plaintiffs. They then put together an offense report which reads like something written by Barney Fife on laughing gas.

The Plaintiffs were then forced to make a bond, hire attorneys and Defendant themselves against the false and malicious charges. The Plaintiffs no longer feel safe

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COUNTY OF LEE }

FEB 10 1997

CLERK OF DISTRICT COURT

in their home. They do not know who can be trusted since they know that they cannot trust and rely on police officers with the city of Giddings or their supervisors.

III.

The Plaintiffs, pursuant to 42 U.S.C. §1983 and the fourth, eighth and fourteenth amendment to the Constitution of the United States, during the entire incident made the basis of this lawsuit, had the following rights:

- 1) Freedom from use of excessive and unreasonable force.
- 2) Freedom from improper use of deadly force.
- 3) Freedom from deprivation of liberty without due process of law.
- 4) Freedom from summary punishment.
- 5) Freedom to be secure in their person against injuries arbitrarily inflicted; and
- 6) The right to be free of bodily injury inflicted upon them by a peace officer in Giddings, Texas, in violation of the Fourth, Eighth, and Fourteenth Amendment to the Constitution of the United States.

The Defendants, and each of them, violated the constitutional rights of the Plaintiff protected for them pursuant to the Fourth, Eighth and Fourteenth Amendment to the Constitution to the United States and such violation was a proximate and/or producing cause of the incident made the basis of this lawsuit, the injuries and damages sustained by the Plaintiffs.

IV.

At the same time, the Defendants have the following duties and obligations that are incident to preserving the Plaintiffs and their decedents rights as specified above:

- 1) Follow the dictates of the fourth, eighth, and fourteenth amendment to the

STATE OF TEXAS  
COUNTY OF LEE  
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United States Constitution;

2) Do not engage in unreasonable searches, and seizures in violations of the Fourth Amendment to the Constitution of the United States;

3) Recognize that the Plaintiffs have the right to be free from the use of excessive and unreasonable force and improper use of force, freedom from deprivation of liberty without due process of law, freedom from summary punishment, freedom to be secure, in their person and property against injuries, arbitrarily inflicted;

4) Recognize that when a police officer restrains the freedom of a person to walk or drive away he has seized that person;

5) Any such seizure must be reasonable;

6) Not to use excessive force or improperly use force in effectuating a seizure/arrest;

7) Not to inflict injuries by the use of excessive and unreasonable force or improperly use force while seizing a person;

8) Adequately train the police officers on the force;

9) Adequately supervise the police officers on the force.

10) Exercise proper procedures and do proper background searches in connection with the hiring of police officers.

11) Properly report peace officer misconduct involving violence, intimidation, and humiliation;

12) Properly investigate incidents of peace officer misconduct, involving violence, intimidation and humiliation; and

13) Properly document and monitor peace officer misconduct, involving violence, intimidation and humiliation.

THE STATE OF TEXAS }  
OFFICE OF THE ATTORNEY GENERAL }  
IS A TRUE COPY OF THE ORIGINAL

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authorizations.

The actions of the Defendants as stated above were entirely unjustified and constitute an unreasonable and excessive use of force which deprived the Plaintiffs of the above stated rights of the United States Constitution and the laws of the United States.

Defendants under color of authority of the City of Giddings deprived the Plaintiffs of the rights specified above which was the proximate and/or producing cause of the injuries and damages sustained by the Plaintiffs and their decedents as more fully set out herein.

V.

Defendant, City of Giddings as the employer of Nathan P. Lapham and Jimmy Fennell had certain duties and obligations in connection with the incident in question. City of Giddings had the obligation to insure that the constitutional rights of free citizens such as the Plaintiffs and their decedents were not violated by any City of Giddings police officer working for them. To do this the City of Giddings had the following obligations and duties:

- 1) Not to be indifferent in connection with the hiring of its police officers.
- 2) To properly train and supervise its police officers.
- 3) Not to be deliberately indifferent to the potential of peace officers want to use excessive force and improperly use of deadly force.
- 4) To exercise reasonable care in investigating other claims of excessive force and officer misconduct.
- 5) Supervise the officer in the proper use of force and deadly force.
- 6) To not knowingly approve acts of peace officer misconduct involved in

STATE OF TEXAS }  
COUNTY OF LEE } THIS IS TO CERTIFY THAT

FEB 18 1997



*Christine Melcher*



violence, intimidation and humiliation.

7) Not to be deliberately indifferent to a known act, constituting peace officer misconduct.

8) In connection with the foregoing, to not allow these acts and omissions to become such a habit or custom that they would be considered policy by city of Giddings.

Defendants violated the Plaintiffs and the deceased fourth, eighth and fourteenth amendment rights and subjected them to a section 1983 violation in connection with the incident made the basis of this lawsuit.

The City of Giddings failed to properly investigate and determine the background Nathan P. Lapham and Jimmy Fennell. If proper investigation would have been done, these police officers would and should never had been hired by the City of Giddings Police Department. City of Giddings did not properly inquire into the background of Nathan P. Lapham and Jimmy Fennell although they were obligated to do so. Webb County failed to do enough of the background check to determine the sensibility, demeanor and personality of the potential police officers to determine whether or not that person would be a professional law abiding peace officer. Based on the foregoing, the Plaintiffs believe and allege that the city of Giddings was consciously and deliberately indifferent in the way that they hired, trained and supervised Nathan P. Lapham and Jimmy Fennell. in their performance of their job duties.

City of Giddings has further exhibited deliberate indifference by failing to take any remedial action prior to the incident made the basis of this lawsuit. City of Giddings failed to investigate claims properly in order to supervise their deputy sheriffs and their proper use of their authority.

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is a true copy of the original

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*Odell M. McElhiney*

VI.

Plaintiffs further pray for the recovery of pre-judgement and post-judgement interest as provided by the Texas Supreme Court and Legislature of the State of Texas.

VII.

The Plaintiffs will show that the Defendants are jointly and severally liable, as that term is understood in Texas law.

Plaintiffs would show that the damages of Plaintiffs greatly exceed the minimum jurisdictional limits of the Honorable Court but should not exceed Five Hundred Thousand Dollars (\$500,000.00).

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that upon final trial Plaintiffs have judgement against the Defendants, jointly and severally and for such other relief they may be entitled.

Respectfully submitted:

By: 

Norman Jolly

TBA# 10856920

1018 Preston, 4th Floor

Houston, Texas 77002

(713) 237-8383

Fax: (713) 237-8385

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is a true copy of the original

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*Shelene Melcher*